

Official Transcript of Proceedings

NUCLEAR REGULATORY COMMISSION

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and Acceptance Criteria (ITAAC) Workshop

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2 NUCLEAR REGULATORY COMMISSION

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4 PROGRAMMATIC INSPECTIONS, TESTS, ANALYSES

5 AND ACCEPTANCE CRITERIA (ITAAC) WORKSHOP

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7 MONDAY,

8 AUGUST 25, 2003

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10 ROCKVILLE, MARYLAND

11 The workshop was held at the Nuclear Regulatory Commission, Two
12 White Flint, North Auditorium, 11545 Rockville Pike at 1:00 p.m., Francis
13 Cameron moderating.

14 PANEL MEMBERS IN ATTENDANCE:

15 Russ Bell

16 Ben George

17 Eddie Grant

18 Paul Gunter

19 Jim Lyons

20 Al Passwater

21 Dave Ritter

22 Joe Sebrosky

23 Ron Simard

24 Jerry Wilson

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P-R-O-C-E-E-D-I-N-G-S

1:10 p.m.

MODERATOR CAMERON: Good afternoon. Welcome to the public meeting round table discussion on something known as Programmatic ITAAC and I think that everybody probably knows what that's all about, and my name is Chip Cameron. For those of you that don't know me, I'm special counsel public liaison here at the Commission and it's my pleasure to serve as facilitator today, and in that role I'll try to assist you in all having a productive meeting.

Our format for today's meeting is more or less a round table. It is a round table discussion and we want to try to promote a dialogue on all of you here at the table for Programmatic ITAAC issues. There is various interests around the table. Participants from the nuclear industry, participants from the activist community and the Nuclear Regulatory Commission and in a few minutes you'll get the chance to all introduce yourself.

We're using a round table format as opposed to a town hall meeting format today, so that we can not only hear your individual views on the issues, but also get some reactions from others around the table to those views and some sort of discussion on those views, and hopefully that will provide a different type of data point for the NRC staff like we normally get in some of the public meetings that we do.

In terms of ground rules, real simple. You all have these name temps in front of you, and I'm going to ask you if you want to make a comment to just turn it up like that, and that way we'll be able to keep track of who wants to talk without you having to just keep raising your hand or just blurting something into an ongoing discussion. I will keep track of the cards, and I may not call you in the order that you put the cards up, so that we can follow the

1 discussion thread that's going on at the moment.

2 We are taking a transcript. We have our stenographer back
3 there, and he has made a diagram of where you are sitting, so that after initial
4 introductions, don't worry about stating your name for us. He'll keep track of
5 that. Although the focus of the meeting today is at the table, we are going to go
6 out to those of you in the audience after each major discussion point to see if you
7 have any comments that you want to add to this discussion, questions, perhaps
8 for the participants up here. And when we do go out to you, if you could just
9 give us your name and affiliation, if appropriate, so that we'll get that on the
10 transcript also.

11 In terms of the agenda for the meeting, we're going to start off
12 with some context. We have Jim Lyons who is the program director of the New,
13 Test and Research Reactors Program in our Office of Nuclear Reactor
14 Regulation and Jim is right here. He is going to give us a welcome and a little
15 bit of an overview on how this Programmatic ITAAC all fits into the new reactor
16 licensing framework and then we're going to go to Mr. Joe Sebrosky, who is
17 really the project manager, I suppose would be an appropriate term, for the
18 Programmatic ITAAC issue, and Joe is going to go through the history, what
19 some of the issues are and then open it up for questions just to make sure that we
20 all understand what the NRC's plans are, what they are trying to develop.

21 Then we're going to go to what we have on the agenda as just
22 participant perspectives and that's to give all of you an opportunity at the
23 beginning to state what some of your concerns and issues are. And I know that
24 you may be stating position, at that point, and that's fine, obviously. I would
25 hope though that as we go through the rest of the agenda items that you might
26 find a way to see if there is some agreement possible perhaps on the various
27 issues.

1 And in that regard, we're going to start with a broad topic
2 discussion which is what is the need for Programmatic ITAAC. In other words,
3 what function does the Programmatic ITAAC serve? Are there other ways of
4 meeting that function? And I think you are going to see that we're going to get
5 into some alternatives. Russell Bell from Nuclear Energy Institute, I think,
6 during the participant perspective is going to give us a brief presentation that
7 may lay out another alternative for us.

8 And we'll talk about alternatives as staff has a proposal. They
9 are asking for comment on and then we're going to take a specific look at the
10 staff proposal and then talk about future implementation. This is meant to be a
11 draft agenda. If you need to modify it, to add anything on or make adjustments,
12 we'll do that. We are going to try to end at 4:30 today, and I guess I would just
13 thank you all for being here. And why don't we do some introductions around
14 the table.

15 Ben, do you want to start us off?

16 MR. GEORGE: Sure. I'm Ben George with Southern
17 Nuclear.

18 MR. SIMARD: I'm Ron Simard with NEI.

19 MR. RITTER: Dave Ritter with Public Citizen.

20 MR. WILSON: Jerry Wilson, New Reactor Section in
21 Nuclear Regulatory Commission.

22 MR. SEBROSKY: Joe Sebrosky in the New Reactor Section.

23 MR. LYONS: Jim Lyons.

24 MR. GUNTER: Paul Gunter, Nuclear Information and
25 Resource Service.

26 MR. GRANT: Eddie Grant with Exelon.

27 MR. PASSWATER: Al Passwater, Pulstar, working with

1 NEI.

2 MR. BELL: I'm Russell Bell with NEI.

3 MODERATOR CAMERON: Okay. Great. Are there any
4 questions about the agenda or what we're trying to do? We'll go to Jim Lyons.
5 Okay. And, Stenographer, are we -- are you getting this all? Is everything
6 okay? Terrific. And when we're done with all of the presentations, we may, if
7 we can do it easily, try to move this out of the way so that we're not so
8 encumbered up here.

9 Jim, do you want to start us off?

10 MR. LYONS: Thank you, Chip. I want to welcome
11 everybody again. I'm glad you all could make it out here this afternoon. We're
12 looking forward to this being a productive workshop.

13 Next slide, please. Let me just kind of lay out what the
14 presentations that we're going to make are. I'm going to give a brief description
15 or a discussion of our organization and where we fit into the organization. And
16 then I'm going to turn it over to Joe Sebrosky and he is going to talk about the
17 Part 52 and the Part 50 licensing processes as Chip was talking about a history
18 of Programmatic ITAAC and then present the staff's proposal on addressing the
19 issue.

20 Next slide. This is our new organization. I don't know if you
21 can see this very well, but it's also in your handout. As Chip said, I have a new
22 title. It's program director of the New, Research and Test Reactors. I have two
23 sections under me. One is the Research and Test Reactor Section, which is
24 headed up by Pat Madden, who has been in that position for a long time, and
25 that's a program that's well under control. And then the other section is the New
26 Reactor Section and that's basically the New Reactor Licensing Project Office
27 has become a section under me.

1 Laura Dudes is our section chief. Laura just started two weeks
2 ago. Unfortunately, she had already made plans for today to be away or she
3 would have been here for this workshop. I would have liked to have everybody
4 meet her. She is taking Marsha Gamberoni's spot, if any of you have been to
5 previous meetings with us, Laura has been with the Agency for a number of
6 years and has served as our resident inspector, both at Indian Point and a senior
7 resident at the Oyster Creek. I'm really looking forward to working with her and
8 with the rest of the section.

9 If you look up here, it lists all the other people in our section.
10 It's the same people that a lot of you have been interacting with already and, you
11 know, I think it's a great group of people and we've been doing a lot of work to
12 get ready for licensing new reactors.

13 Next slide. Again, this is a very busy slide. You've got a
14 blowup of it that's helpful to see. We are right here in the organization. I report
15 to the Division of Regulatory Improvements Programs. This is the same
16 division that the License Renewal Program is in under Dave Matthews, who is
17 division director, and Frank Gillespie is the deputy director. We report to John
18 Craig. He's the associate director for inspections and programs.

19 John Craig just recently picked up that job replacing Bill
20 Borchardt, who moved up to be the deputy office director and, as most of you
21 know, Sam Collins has moved on to be one of the deputy executive directors for
22 operations and he is being replaced by Jim Dyer, who is currently the regional
23 administrator in Region 3. Jim will be reporting to duty some time next month
24 and until that time Bill Borchardt is the acting director.

25 Did I get everything? Oh, I guess I wanted to -- one of the
26 things, we reorganized all the programs and work that is being done under John
27 Craig back in the June time frame, right at the end of June. And the reason we

1 did that was to level the loads on the various program directors and branch
2 chiefs and actually to move my group back into a division where we always
3 envisioned it to be after the initial start up and to get us back into kind of a
4 normal operating mode. By being a division, there is certain internal
5 infrastructure that are helpful to me that I don't have to supply through my own
6 people. So we see it as a very positive move. It helps us get extra help in a lot
7 of our work.

8 Next slide. This is a slide that shows our current schedule of
9 our major product lines for the New Reactor Section. And it is broken up into
10 early site permits and design certifications and Joe will be going into what each
11 one of those mean. But just to give you an idea, we have three early site permits
12 that we're expecting in now probably around the end of September for Entergy,
13 Exelon and Dominion at the Grand Gulf, Clinton and North Anna sites.

14 We're working on the AP1000 Design Certification. We
15 issued our draft SER in June of this year. We're working towards a September
16 '04 date for a final SER and final design certification about a little over a year
17 after that. We are in active pre-application reviews for the ESBWR, which is a
18 General Electric Boiling Water Reactor that uses passive systems and the AECL
19 technologies advance CANDU reactors ACR-700.

20 We also have pre-application reviews going on at a much
21 lower level on the IRIS, the SWR-1000 GT-MHR and actually PBMR is on
22 there only because as they move forward in South Africa with the demonstration
23 unit, the PBMR Limited has talked to us about coming forward to restart their
24 pre-application work. But that's just kind of a summary of what we're working
25 on and the Programmatic ITAAC is obviously a very important aspect of getting
26 ourselves ready for a combined license, if one should be applied for, and this is
27 a process that we want to keep moving forward.

1 We, as Joe will probably mention later on, we have a SECY
2 or Commission paper due up in April of next year. So with that, let me turn it
3 over to Joe.

4 MODERATOR CAMERON: Jim, since this is a little bit out
5 of our schedule, but while Joe is coming up, since this is such high level on the
6 reorganization and the schedule, maybe we should just check in and see if
7 anybody has any questions about that.

8 MR. LYONS: Yes.

9 MODERATOR CAMERON: Go ahead.

10 MR. GUNTER: You had mentioned that the PBMR might
11 come up again for reapplication, but I missed who you said would be presenting
12 to NRC.

13 MR. LYONS: Right now, the only people we've talked to
14 really are the PBMR Limited, which is a South African company. They would
15 have to have a U.S. company that would sponsor it.

16 MR. GUNTER: Currently no one has taken that?

17 MR. LYONS: But currently no one has taken that.

18 MODERATOR CAMERON: Okay. Any other questions on
19 reorganization or broad schedule? Anybody in the audience? Okay. Great.
20 Let's go to Joe Sebrosky. Thank you very much, Jim.

21 MR. SEBROSKY: For my portion of the presentation, I
22 guess, going back to what Chip had said earlier, we just want to give you a high
23 level overview and I'll try to make this brief to place the issue of ITAAC, which
24 stands for Inspections, Tests, Analyses and Acceptance Criteria into perspective.
25 So to do that, I'll give you just a brief background. I'm not going to go over
26 every slide on the overview. I'm not going to go into detail on every slide. I'll
27 talk a little more in detail about what the Programmatic ITAAC issue is, and

1 then talk in more detail about the staff's proposal.

2 So on this slide, the intention of this slide was to just show the
3 10 CFR Part 50 Licensing Process, which can still be used, but there isn't in any
4 of the discussions we've had with applicants so far, they have told us that they
5 intend to use Part 52 Licensing Processes if they proceed with constructing the
6 units. The Part 50 Licensing Process, on this slide I just wanted to show that
7 there is a construction permit stage and then an operating license stage.

8 Next slide, please. On the Part 50 Licensing Process, the thing
9 that I wanted to talk about here was the public participation was difficult at the
10 operating license stage, because the nuclear plant was nearly complete.

11 You can go to the next slide. One of the goals for the Part 52
12 Licensing Process was to resolve safety and environmental issues before
13 authorizing construction. We'll come back to this a little later.

14 Next slide, please. The Part 52 Licensing Process, another
15 thing that it was supposed to do was to resolve inspection requirements and
16 acceptance criteria, which is what ITAAC is, prior to authorization of the
17 construction.

18 Next slide, please. We'll spend a little more time on this slide.
19 The 10 CFR Part 52 Licensing Process consists of three parts. There's a sub-Part
20 A which is the early site permit and that's what Jim had talked about with the
21 applications that we expect in September with Grand Gulf, North Anna and the
22 third site escapes me at the moment, but that's the early site permit stage. The
23 standard design certifications when Jim was talking about the AP1000, the
24 ACR-700, the PBMR and GT-MHR, that's sub-Part B, that's where that fits in.
25 And the sub-Part C is the combined license review and hearing phase.

26 If you look at these little asterisks here, you'll see four
27 equivalent processes. When you get to a combined license review, an applicant

1 has the option of referencing an early site permit and a standard design
2 certification, both of those or neither one of those, any combination. If they do
3 not reference it at the combined license stage, then the level of information that
4 we got at the early site permit stage and at the standard design certification stage,
5 we would expect to see in the application.

6 After the combined license, there is a mandatory hearing
7 associated with that. You get to the actual construction. The NRC verifies that
8 the ITAAC has been properly completed and then the unit goes to reactor
9 operation.

10 Next slide, please. For this, this is just a summary slide. I
11 wanted to mention if you wanted more information, one of the handouts that we
12 had was this little blue pamphlet. It talks in more detail about the Part 50
13 Licensing Process and the Part 52 Licensing Process, that's why it was out on the
14 desk. We also have a website. This is the web address for the website.

15 If you go to this website, it will talk more about the Part 52
16 Licensing Process and it will also give you information on the designs that we're
17 looking at, both early site permits, standard design certifications and other issues
18 like the combined license issues that we're just beginning to engage industry on.

19 These other two things are unrelated, but I just wanted to make
20 sure people were aware of it. Jerry Wilson is the project manager responsible
21 for updating the rule making for Part 52. We have a Federal Register notice that
22 was issued July 3rd and our comment period ends September 16th on that.
23 We're not going to be discussing that in this meeting. I just wanted to alert you
24 to that. There is also a construction inspection framework document that was
25 issued for public comment. We have a workshop scheduled on Wednesday and
26 the public comment period on that document ends September 15th.

27 Next slide, please. I would like to go into a little more detail

1 about the combined license stage. The combined license is a combined
2 construction permit and conditional operating license. As I said earlier, it may
3 reference an early site permit, a standard certification, both or neither. And a
4 combined license is a fundamental licensing process in Part 52.

5 Next slide, please. This slide was to just put into perspective
6 what ITAAC is and how it fits into the process. ITAAC verifies that the facility
7 has been constructed and will be operated in conformity with the license. It is
8 met prior to fuel load. It's part of the Tier 1 material that we have reviewed in
9 the Design Control Document for the certified designs. I'll get to that in a little
10 bit. And this is the other information that's in the Tier 1 material. ITAAC is part
11 of that.

12 The designation of Tier 1 just shows where it appears in the
13 hierarchy. Tier 1 information, which ITAAC is, is at a higher level than the Tier
14 2 information. Tier 2 information is typically the FSAR. Tier 1 is this type of
15 information that is bubbled up from that review. And the Tier 1 material has a
16 different change process associated with it than the Tier 2 change process. The
17 Tier 1 change process it's actually codified in a rule, so you would have to seek
18 an exemption or a rule making to make changes to it. Tier 2 has a 50.59 like
19 change process like the SAR. The hearing opportunity after the plant is built is
20 tied to the ITAAC.

21 Next slide. This is a combined license overview. You have
22 this slide. It's hard to read, but if you go to the next page, it's blown up. And
23 what this slide is intended to show, we also have posterboards in the back of the
24 room, but what it is intended to show is all the opportunities for public
25 involvement throughout the combined license stage.

26 It starts with pre-application meetings that we would expect
27 would be public. You have the combined license application that's actually

1 issued and then you can follow this line through and see the staff reviews. You
2 see a mandatory hearing associated with the combined license. This mandatory
3 hearing is done prior to the NRC's decision on whether or not to grant a
4 combined license. And then based on the NRC's decision, if we do grant a
5 combined license, you go to reactor construction and verification of the ITAAC.

6 And then there is an optional hearing here. It says hearing if
7 granted. The hearing is tied to whether or not the ITAAC have been met. At
8 this point, the plant is constructed or nearly completed construction and there is
9 in 10 CFR 52.103, it talks more detail about that hearing. So just a place in
10 context where you see ITAAC, you see ITAAC at the beginning of the stage.
11 If a combined license applicant references a certified design, if they reference,
12 for example, the AP600, you can find in the AP600 Design Control document
13 the ITAAC that are related to the design. Those are resolved prior to that. You
14 would expect all ITAAC, as going back to the earlier slide, you would expect all
15 ITAAC to be settled at this stage before the NRC makes its decision.

16 Next slide, please. The Programmatic ITAAC, the recent
17 history on this Mr. Wilson can tell you that the history on this goes back to
18 actually Part 52 back to the '80s time frame. I don't go back that far. I only go
19 back to 2000 when I say recent history. And the issue with Programmatic
20 ITAAC is should a COL application contain ITAAC on operational programs
21 required by regulation, such as training and emergency planning? I had said
22 earlier, if you go to the AP600 or AP1000 or the ABWR, we have worked
23 through the process and developed the ITAAC that are related to the design.

24 These programs are those that would typically fall under the
25 purview of a power plant licensee and not a designer. SECY-00-0092 discussed
26 the issue. We got a Staff Requirements Memorandum or SRM on that that
27 directed us to work with our stakeholders more. We also received a letter, May

1 14, 2001, from NEI that restated their position and requested an early resolution
2 of the issue.

3 Next slide, please. Based on NEI's letter, we separated the
4 Programmatic ITAAC issue from Part 52 Rule Making and we issued a Federal
5 Register notice back in June of 2001 seeking public comment on the issue. This
6 is just a tally of the comments that we received.

7 Next slide, please. Based on the comments that we received,
8 we issued a SECY-02-0067 that requested approval of the position that ITAAC
9 for programs are needed. That was the staff's position. In a Commission Staff
10 Requirements Memorandum, September 11, 2002, the Commission approved
11 a much more limited use of Programmatic ITAAC that was envisioned by the
12 staff, directed the staff to work with stakeholders to develop guidelines,
13 determine when programmatic information is needed in a combined license and
14 determine when a program is beyond emergency planning require or likely
15 require ITAAC.

16 Next slide, please. Based on the SRM, we engaged the
17 industry. We have had two meetings with them, the February 20th meeting and
18 May 22nd meeting, based on those meetings that we had with industry, the staff
19 developed a proposal to address the issue. We took 14 of the programs that we
20 consider operational programs or programmatic programs and we broke them
21 into five categories. You know, those 14 programs are listed in SECY-02-0067.
22 And then we took the Fire Protection Program and we chose that as an example
23 to determine the level of detail that is needed in a combined license.

24 Next slide, please. Getting back to those 14 programs, in the
25 staff's proposal, we developed five categories from Category A, a Programmatic
26 ITAAC is required. The example here is emergency planning. Category B, a
27 Programmatic ITAAC is not necessary, because we think we have design related

1 ITAAC that address the issue. Category C and D, Programmatic ITAAC may
2 or may not be necessary depending on the level of information that's in the
3 combined license application. And Category E, Programmatic ITAAC are not
4 necessary, because the ITAAC will be dispositioned after fuel load.

5 One of the things that I should have mentioned earlier is
6 ITAAC end at fuel load. And if you go to a traditional construction phase, there
7 is still a start up operational phase before the plant goes to commercial
8 operation. So ITAAC do not cover that in that start up phase.

9 Next slide, please. The Fire Protection Program, this is either
10 Category C or D, depending on the level of information that's in the combined
11 license application, that's why we chose it. We think it is one of those programs
12 that falls into that category. We used information from the Callaway Plant and
13 the AP600 design certification review. We used the Callaway Plant because
14 that's a standard nuclear power plant that has a standard plant FSAR associated
15 with it and then a site specific addendum, so we thought that the way that its
16 FSAR was constructed it would look something similar to what we would
17 expect in a design certification or a combined license review with the design
18 certification being analogous to the standard portion of the FSAR and then the
19 site specific addendum being analogous to the information that we would expect
20 in the combined license application.

21 The level of information that is needed in the combined
22 license application we basically broke that into six categories. The first three
23 basically go to the level of information that we would expect in an FSAR. The
24 next two in this list talk about the level of detail that we would expect regarding
25 the Fire Protection Program implementation procedures. These two bullets go
26 to, the staff's belief is these two bullets go to, what we were directed to do in the
27 Staff Requirements Memorandum from the Commission. And then the last one

1 is a Fire Protection License Condition. When we were developing this, we
2 looked at the combined license condition that we had proposed in an earlier
3 SECY paper, and at least for the fire protection area, believed that there is an
4 additional licensing condition that we should have.

5 Next slide. To put the proposal in context, we issued a Federal
6 Register notice on July 24 seeking public comment. We are also having this
7 workshop. The information is available on our website under this address. The
8 comment period, written comment period ends September 15th on the proposal.
9 And if you -- at the table you should have noticed this blue bound handout, and
10 this contains the information on the -- that can also be found on the web. It's not
11 all the information that can be found on the web regarding the staff's proposal,
12 it's the key information that can be found on the web, including the Staff
13 Requirements Memorandum and the staff's proposal and then some of the
14 Callaway Fire Protection procedures.

15 Go to the next slide, please. And this is my last slide. If you
16 go to the Federal Register notice, which is included in the back of the handouts,
17 the Federal Register notice has questions at the end that we are specifically
18 seeking comments on. We're hoping to discuss those in the workshop.
19 Basically, on our proposal is the categorization of the programs appropriate and
20 is the level of detail on the staff's proposal appropriate?

21 The last thing I would like to say is if you do go to our
22 handouts, you'll also notice that there is a public meeting feedback form at the
23 end of the handout. So that ends my presentation. Are there any questions?

24 MODERATOR CAMERON: Ben?

25 MR. GEORGE: I guess the way the industry is currently
26 looking at the SRM, you're articulating that the Commission's view of what level
27 of detail should be in a Programmatic ITAAC, if you will, is based on the

1 definition of what fully described was meant to be in the SRM?

2 MR. SEBROSKY: Yes, we think that's one of the key issues.
3 The wording in the SRM is what constitutes fully describing the program, such
4 that you do not need an ITAAC. That was one of the issues that was discussed
5 in the SRM.

6 MR. GEORGE: But I mean, that is the basis for your
7 conclusion, right?

8 MR. SEBROSKY: Our proposal is based --

9 MR. GEORGE: Your proposal?

10 MR. SEBROSKY: Yes. The proposal has looked at that and
11 we developed something that we thought was consistent with the SRM and we're
12 seeking comment on that.

13 MODERATOR CAMERON: All right. Thanks, Ben.

14 MR. GUNTER: My question is how is the -- is the ITAAC
15 set in stone, so to speak? Is the -- or is there opportunity for the ITAAC to be
16 changed in the process through say a deviation process or exemption process?

17 MR. SEBROSKY: Well, there is, and Jerry Wilson can
18 correct me if I'm wrong, but the ITAAC should be set prior to the combined
19 license being issued. If you go back to the processes that we've described earlier
20 and you look at standard design certification, like the review we're doing, take
21 the AP1000 as an example. The AP1000 ITAAC at the end of that standard
22 design certification process, the ITAAC will be set, and they will be
23 promulgated in the rule making.

24 There is a change process that's codified, if you look in 10
25 CFR Part 52, in appendix A, that's the ABWR appendix B is the CE system 80+
26 or the Westinghouse system 80+, and appendix C is the AP600. And it
27 discusses the change process for the Tier 1 material. ITAAC resides in Tier 1.

1 And the change process for Tier 1 material is either an exemption, you seek an
2 exemption because it's considered part of the rule, the other process is to change
3 it by rule making.

4 And I guess I would turn to Jerry and see if there was anything
5 that he wanted to add.

6 MR. WILSON: Jerry Wilson. Your scenario assumes an
7 applicant for a combined license references a previously certified design, and so
8 Joe spoke about those ITAAC that were agreed upon during the design
9 certification review process, and the change process and the certification rule
10 would control those. Any other ITAACs such as ITAAC for emergency
11 planning that would be developed at the combined license stage would be
12 controlled by the process in 52.97, which describes what would happen if
13 licensee building a plant have the issuance of the COL wanted to change one of
14 those ITAAC. So those are the ways that changes could be requested.

15 MODERATOR CAMERON: Paul, is that clear to you how
16 that might work?

17 MR. GUNTER: Well, it's still evolving, so but for now, I
18 think, it answers the question.

19 MR. SEBROSKY: Yes, the bottom line on that Tier 1
20 material, which is where ITAAC resides, is more difficult to change than
21 typically an FSAR type material or Tier 2 material would be.

22 MR. GUNTER: But, and a big but, is that change can be
23 affected through -- by the licensee?

24 MR. SEBROSKY: That's correct.

25 MR. GUNTER: Yes.

26 MR. SEBROSKY: The licensee can seek an exemption or as
27 Jerry said the 52.97 change process.

1 MODERATOR CAMERON: Okay.

2 MR. GUNTER: Well, if I could, could you elaborate a little
3 more specific on the 52.97 process?

4 MR. WILSON: Well, you know, a request would be made to
5 either, as Joe said, well, let me back up. Let's take a scenario where a licensee
6 is building a plant and the licensee determines or someone comes forward and
7 alleges that a particular ITAAC can't be met. The licensee could choose to go
8 back and rework it or seek to change the ITAAC. And I can't recall now, but I
9 think it requires something in the order of a license amendment and there may
10 also be hearing opportunities associated with that. And the specifics I'm not
11 exactly sure, but it's in 52.97.

12 MR. GUNTER: Okay. Thank you.

13 MODERATOR CAMERON: And let me just make sure that
14 we have everything we need there. Bob, do you want to just clarify? This is
15 Bob Weisman.

16 MR. WEISMAN: I'm Bob Weisman, Office of the General
17 at NRC. Jerry is correct that Section 52.97 governs process between ITAAC and
18 license. That would require licensing. It's in the rule for design certification.
19 Now -- rule making or exemption, but if it's in the license, if the COL does not --
20 certified design, then all the ITAAC devices change.

21 MR. GUNTER: Okay. And just one quick follow-up. So I'm
22 to understand that the ITAAC, the exemption process or any associated changes
23 would have to be resolved prior to issuance of the construction or operation?

24 MR. WEISMAN: Well, sir, okay, there would be a set of
25 ITAAC approved at the time that the COL was issued. If, at that time, the
26 applicant wanted exemptions, yes, exemptions from ITAAC and the certified
27 design, it would all be incorporated in the COL. However, after the time the

1 COL was issued, there is still an opportunity for the COL holder to request
2 changes in the ITAAC. At that time, if the ITAAC are in the license, it will
3 require an amendment. And similarly, if it's still in the rule, you could make a
4 generic change to the ITAAC in the certified design that would apply to the
5 COL holders plant or building. Is that clear?

6 MR. GUNTER: Yes.

7 MODERATOR CAMERON: Okay. All right. Let's go to
8 Russ Bell. I'll sit on that. Russ?

9 MR. BELL: Thank you. On slide 20, Joe, you listed 1, 2, 3,
10 4, 5, 6 things, types of information needed in a COL, right? The 4th and 5th
11 bullets, one is on Core Plant Protection Procedures, the 5th bullet is on
12 secondary or you call it here Unique Procedures to the Fire Protection Program.
13 In the staff's proposal on July 1, the staff said that they were -- the second level
14 of procedures was under consideration, in terms of, you know, what the staff's
15 position was.

16 I didn't hear you qualify that in the same way when you
17 presented it. Has your position evolved to such that both these levels of
18 procedures would be expected?

19 MR. SEBROSKY: I guess I wouldn't say that our positions
20 evolved, that has been our position. If you look at the 4th bullet, the level of
21 detail found in the Callaway Core Fire Protection Program procedures and you
22 go to the discussion, and you go to this blue book, we have the implementing
23 procedures that we think fall into that, the implementing procedures from
24 Callaway that fall into that 4th bullet. They are contained in this blue book.

25 MR. BELL: 4th bullet, yes.

26 MR. SEBROSKY: Yes. If you go to these procedures, you'll
27 see references to other procedures. And the question that we have not

1 completely resolved ourselves is how far do you go down into those procedures
2 that are referenced in these core procedures. So that's the 5th bullet. And the
3 way we phrase that were the implementing procedures that were unique to the
4 Fire Protection Program.

5 MR. BELL: Let me follow-up a little bit, I think, on Ben's
6 question. Those two bullets, two levels are primary and secondary level
7 procedures. Your interpretation of the Commission's SRM is that that's what
8 they meant by the term fully described? I guess I'm wondering if you have, you
9 know, other background information that led you to that interpretation? I think
10 the term, one could say it's not fully described until you give me every line,
11 every word, every dot and every -- the dot of every I and the cross of every T.

12 It's not fully described until it's fully described. It gets a little
13 dicey to interpret that term. You've interpreted it this way that the staff, the
14 Commission intended that procedure level information, in some cases, detail
15 procedure information was what they meant. I'm wondering what the basis for
16 that interpretation is.

17 MR. SEBROSKY: The basis for the interpretation is just our
18 review of the SRM sitting down with the fire protection people and our
19 construction inspection procedures folks and what we thought would address
20 that portion of the SRM that talks about fully described, and saying specifically
21 the issue that we were trying to resolve is where the Commission states that a
22 Programmatic ITAAC should not be necessary if you fully describe the program.
23 And that's the portion of the SRM that we thought if you address those six
24 issues, that that resolves the direction from the Commission.

25 MODERATOR CAMERON: Russ, is there an implication
26 that there is a different way to look at that in terms of fully described? And the
27 reason I'm asking is just can we put this in the parking lot, this level of detail,

1 until we get to that part of the agenda for a discussion?

2 MR. BELL: That would be fine.

3 MODERATOR CAMERON: Okay. Good. We'll do that.

4 And other questions? Ben, did you have anything you wanted to add?

5 MR. GEORGE: Since you're deferring that, no.

6 MODERATOR CAMERON: All right.

7 MR. GEORGE: I'll take it up later.

8 MODERATOR CAMERON: We'll come back to that, and
9 just generally in terms of the agenda, after we get the participant perspectives,
10 we're going to take a look at what is the function of an ITAAC. We'll take a
11 look at broad alternatives to fulfill that function. One might be, for example, the
12 staff alternative, another might be an alternative presented by NEI. There may
13 be other alternatives. The last discussion item is taking a specific look at the
14 staff's categories and also this level of detail, which seems like it might be fairly
15 important, so we'll make sure that we get there.

16 Are there any other questions around the table, clarifying
17 questions for Joe or anybody in the audience who has a question? Just to make
18 sure everybody understands before we go on. Yes, go ahead up to the mike.

19 MR. FRANZ: My name is Steve Franz from Morgan Lewis.
20 Currently for an OL applicant under Part 50, staff may inspect procedures for
21 fire protection, but those would not be part of the licensing basis. Could you
22 confirm under Part 52 whether you would view these procedure level
23 information to be inspectable, but not part of the licensing basis?

24 MR. SEBROSKY: That's another issue that we haven't
25 specifically discussed in the proposal. We don't say that those fire protection
26 implementation procedures need to be in the FSAR. We just say that it should
27 be made available at the application. So we have not resolved that or that will

1 reside.

2 MODERATOR CAMERON: Is that another issue for
3 discussion? In other words, you have what type of information is required and
4 what detail and is the third issue where that should be located?

5 MR. SEBROSKY: Yes, and the reason that we didn't put that
6 in the proposal is because we're trying to get past the first real big, big issue.

7 MODERATOR CAMERON: Okay.

8 MR. SEBROSKY: You know, this is like we're hoping that
9 we can determine the level of detail that you need in the combined license
10 application, and then from there figure out where it should reside.

11 MODERATOR CAMERON: All right. Thanks, Joe. And
12 does that answer your question? Okay. We're going to start on the participant
13 perspectives. We're going to go to Russ Bell of the Nuclear Energy Institute to
14 give us their perspective, and we're going to start with Russ, because I think it's
15 the most detailed alternative that we have to the staff proposal and also there
16 may be questions when we get to others of you about Russ' presentation. Russ?

17 MR. BELL: Slide 6. Jim, slide 6.

18 MR. LYONS: Okay.

19 MR. BELL: Oh, I'm sorry. Thank you, Chip, for letting me
20 start the other perspectives discussion. You may already have the hard copy
21 handout. It looks like this. The staff has gone over some of the -- Joe has gone
22 over some of the background, and so I propose to skip up to slide 6 in that
23 package. And with a little help from my friend, Al Passwater, we'll try and
24 move through these fairly quickly and get on to some discussion.

25 What I would like to do is provide the industry perspective on
26 operational programs and how they can be reviewed and approved under the Part
27 52 process. Part 50 and 52 differ in important ways, no doubt about it. As you

1 may begin to gather as you hear us talk, we don't think that the treatment of
2 operational programs is an area where the two are terribly different. We think
3 they are more alike than different as the process relates to treatment of
4 operational programs.

5 Just as in the past, we envision that these programs would be
6 described in the FSARs, and their implementation verified later by regional
7 inspections prior to operation. But this bring up the two key issues, I think, here.
8 First of all, what's the reasonable assurance that the NRC has regarding
9 operational programs, such as fire protection, training, security, radiation,
10 protection, others that those programs will meet NRC requirements and protect
11 the health and safety of the public? At time of COL, where does that reasonable
12 assurance come from? It's a key question.

13 Secondly, and we'll get to it second, what type of level of
14 information needs to go in a COL application to support an NRC reasonable
15 assurance finding on the operational programs at COL?

16 Can I have the next slide? A reasonable assurance finding at
17 COL, we think, should be based on whether the licensing process, as a whole,
18 provides the necessary assurance that those programs will meet NRC
19 requirements, that they will provide for the public's health and safety. FSARs
20 will describe what licensees will do and when they are going to do it. And then
21 NRC has a range of requirements and authority to make sure that those things
22 come to pass.

23 In the fire protection area, among the NRC regulations are
24 50.48 and general design criteria 3 in Appendix A. The license itself becomes
25 a requirement on that licensee. It includes tech specs. The staff has proposed,
26 and we do not disagree, that the typical standard license condition covering the
27 control of Fire Protection Program changes be included as part of the combined

1 license under Part 52.

2 Given all those requirements on that licensee, both generic and
3 in the license, the NRC has broad enforcement authority, as I say, to make sure
4 the things the licensee applicant said they would do, actually do come to pass.
5 Program implementation per se being able to go out and kick the tires on
6 implementation of the Fire Protection Program, Radiation Protection Program,
7 and these other types of operational programs is not necessary to support this
8 reasonable assurance finding at COL.

9 The next slide, please. So the reasonable assurance that fire
10 protection and other programs will meet the NRC requirements based on the
11 information provided by a COL applicant in a combined license, those are the
12 program descriptions and implementation descriptions that are provided and, of
13 course, required compliance with that fabric of NRC requirements that I was just
14 talking about. Compliance with those requirements and assurance of public
15 health and safety is assured by the NRC's own site enforcement authority.

16 And this has been done over 100 times. The NRC has verified
17 implementation of these programs prior to operation at all the existing plants.
18 ITAAC have not been used. And in this case, they would provide no additional
19 assurance at time of COL as to the program implementation that will occur years
20 later when the plant is staffed and built and so forth. And much of that should
21 sound familiar, as I say, to the Part 50 process. NRC has always inspected those
22 procedures prior to an implementation prior to operation, and this will not
23 change. And the way the staff does is through regional inspection and we also
24 expect that not to change.

25 May I have the next slide, please? That's the source. We think
26 of the reasonable assurance that the staff can and should have at the combined
27 license phase, based on program descriptions similar to what has been provided

1 before. In addition, would be provided an indication of when those programs
2 would be implemented and procedures available. That type of information
3 would be provided in the COL application.

4 And that brings us to the second question. What type and
5 level of information would a COL applicant provide to support that NRC
6 reasonable assurance claim? And the short answer is it depends.

7 If I can have the next slide, please, because there is different
8 kinds of programs. Certainly, there are programs that need to be in place before
9 others. Programs that need to be in place at the time of COL are your
10 Construction Quality Assurance Program at COL, your construction fitness for
11 duty that's FFD and Part 21 programs ought to be in place. But you don't have
12 a staff and you don't have a plant and you don't -- there is not a need to have a
13 Fire Protection Program, a Security Program, training, Radiation Protection
14 Program, these programs can come later and, typically, would be implemented
15 in time for fuel load and procedures available for NRC prior to that point for
16 inspection.

17 There is other programs that aren't required until even after
18 plant operation. I'm thinking of the Maintenance Rule and the ISI/IST, I'm
19 sorry, In Service Inspection, In Service Testing requirements. So the answer is
20 it depends. In each case, these programs and the time frame of their
21 implementation would be described under FSAR submitted by a COL applicant.

22 Thank you, the next slide. Just to provide a sense for how a
23 COL project might go, what we're talking about today is a COL application, so
24 we're talking about the type of information that would be provided to or
25 available to the NRC at that first hash mark there where the COL application
26 submittal is provided the NRC. The first segment of the green bar is the
27 applicant's preparation of that COL application. The first hash mark is the

1 submittal.

2 So what kind of information is available there? At that point,
3 certainly the Quality Assurance Program is the best example of a program that
4 needs to be up and running, particularly as it relates to design control,
5 procurement of long lead safety related components, these kinds of things would
6 be going on. So that program is an excellent example that needs to be in place
7 there. As I mentioned, other types of examples that require a staff and a plant
8 and so forth, simply don't need to be in place at that point.

9 There is an iterative process that parallels the plant
10 construction process. The iteration is among the plant, the newly hired plant
11 staff, some of whom will write the procedures, on which more newly hired plant
12 staff will be trained and drilled and reveal problems with those procedures.
13 Those procedures will be iterated. They will be adjusted. They will be drilled
14 upon and finalized. And this is how the processes work under Part 50 and how
15 we envision it will work under Part 52.

16 Again, in parallel with plant construction, and this goes to the
17 practical difficulty of providing procedure type information of a meaningful sort
18 two to four years or more before you have the tools in place to develop those
19 procedures. We and the staff chose the fire protection example. To pull the
20 string on this a little bit and explore it, I think that was an excellent idea. It has
21 been an interesting exercise for us. And what I would like to do now is turn to
22 Al Passwater to pick up with slide 12 and talk about our sense for how that
23 example plays out.

24 Al, you want to mention what we provided them a week ago
25 in the hard copy?

26 MR. PASSWATER: Thanks. Yes, as Russ said, we took the
27 example that was proposed by the staff on July 1st looking at the Fire Protection

1 Program and I guess what we, the task force thought would be beneficial would
2 be to try to put something down in writing, rather than kind of discuss general
3 ideas about information as to actually get something in black and white that we
4 could start a discussion on.

5 On the table outside there was a handout that had this cover
6 page on it, and attached to that is the section that we worked on and what we did
7 was we came up with a hypothetical plant and we weren't very creative in
8 naming the plant, so we called it Plant AP1000-1. But it was based on a
9 scenario of an applicant referencing a certified AP1000 design, and being at the
10 point of submitting a COL application referencing that design certification. And
11 we tried to put down in black and white what that application for 9.5-1 would
12 look like.

13 So this was intended to be the plant specific DCD. On the
14 front page of that, there are some kind of caveats about, because there was a
15 limited amount of time, some things that were missing, but they don't really, I
16 don't think, detract from what we put in there as far as description of programs
17 for fire protection. For example, we didn't have a site specific fire hazard
18 analysis, because I didn't have a specific site to work on. So in some cases you
19 will see a reference to an Appendix 9.5-A which would be a supplement to the
20 AP1000 9.5-A on fire hazards analysis. But that's an empty appendix in this
21 example.

22 What constitutes this submittal then is Sections 9.5.1.1
23 through 9.5.1.8. Those are numbered and use the same titles, and the
24 subsections of those sections use the same titles as those used in the AP1000
25 DCD. And essentially, in those areas, if there are any exceptions to or
26 differences from what was in the AP1000 DCD, those are identified. If not,
27 there is a statement that says so, that there are no exceptions.

1 There would be, as I said, a plant specific fire protection
2 analysis and we left a place holder there or reference for that, but for this
3 example, we didn't put those in, because we're really trying to focus on the
4 programmatic areas. There is also a table attached to that Table 9.5-1, which is
5 a subset of the Table 9.5-1 in the AP1000 DCD, which addresses point by point
6 the branch technical position CMEB 9.5-1 on fire protection. And it specifically
7 addresses the areas that were identified in the AP1000 DCD was "WA" or will
8 address which were identified as being left to the COL application for
9 identification.

10 So that table is really just a reference document that provides
11 a road map for finding those specific issues within the text of the rest of the
12 section. And then what is new for this that is not in the AP1000 is 9.5.1.9,
13 which is called Fire Protection Program Implementation, and that's where the
14 bulk of the information is relating to the programmatic issues that would be
15 addressed by this hypothetical applicant for this plant. This is intended to cover
16 all the standard design and the COL applicant SRP review areas to be addressed
17 by the FSAR. So in other words, it takes a combination of this document and
18 what was in the generic DCD in total to address all of Section 9.5.1 for fire
19 protection.

20 Next slide, please. And just to kind of underscore what this
21 provides is our impression is, our intention is that COL applications will provide
22 a level of detail on the program and how it will be implemented, that is
23 equivalent in substance to OL applications at the time of the COL submittal.

24 Next slide, please. Okay. This Section 9.5.1.9, again, since
25 that's the part that's new compared to what was in the DCD, generic DCD, it
26 identifies that the Fire Protection Program will be implemented by procedures
27 to be developed later. And there is an introductory two or three paragraphs in

1 that Section 9.5.1.9 that identifies how the program will be implemented prior
2 to, and it breaks it down into two phases. One is prior to receipt of new fuel on
3 site for storage. And then the second phase is prior to fuel up, which is when the
4 program would be required to be fully operational.

5 And, as I said, it identifies that it will be implemented by
6 procedures at the site. The program description on which to base a reasonable
7 assurance finding is consistent with the generic DCD and the Standard Review
8 Plan and again any exceptions are noted. If there are exceptions to the Standard
9 Review Plan, those are noted. It's very similar to information provided in the
10 Callaway site specific FSAR site addendum, and there is a reason why it is very
11 similar to that, because that's what I used obviously for a lot of programmatic
12 descriptions that was the one we had available and it was the one that was
13 identified by the staff in the July 1st example.

14 It also identifies that, at least in one case, Regulatory Guide
15 1.1.8.9 is a new requirement that I think was new to at least AP600, I'm not sure
16 about AP1000, and that would also have to be identified as an additional set of
17 requirements to be addressed in the COL application. And that references Table
18 9.5.-2, which again was not provided, it was to be provided later, but it was
19 really kind of outside the scope of the example trying to identify what the
20 programmatic information is.

21 The fire protection procedures to be developed and available
22 to support the NRC Inspection Program implementation prior to receipt of first
23 fuel on site or fuel load as appropriate. It looks a bit cut off. Did I skip one?
24 I'm sorry. Got the right ones? Okay. Okay.

25 We're ready for 15. The Fire Protection Program description,
26 this was really contrasting the description that we proposed in this example
27 versus what's included in procedures. And in the first case, the program

1 description to be provided in the FSAR it provides program objectives and the
2 defense in depth philosophy, program attributes and required functions,
3 qualifications and training requirements, and there's a fairly lengthy section in
4 there, for example, on the fire brigade, in general, what the training and what the
5 qualification requirements are, and also identifies QA and administrative
6 controls. Those are specific areas that are addressed in the proposed COL
7 application section.

8 There is a lot of information that will be developed and
9 procedures after the COL will be issued, and those would be, I guess, at another
10 level of detail. For example, titles and numbers of fire protection personnel,
11 some of the organizational relationships, since at the time the COL application
12 is made, the final organization may not be in place. Very specific things like fire
13 fighting procedures, fire fighting strategies and those kind of things are detailed
14 information that would probably not be available at the time the COL
15 application is made.

16 And if you go to the next slide, that's 16, there is a couple of
17 examples identified here contrasting what we would see being available in the
18 FSAR versus what is in those Callaway procedures that were referenced in the
19 July 1st example. What we did there was describe some key positions and
20 defined overall duties and delegation authority that would be applicable to those
21 positions. If you look at the Callaway procedure for fire protection, the APAZZ-
22 700, which is the overall Fire Protection Program, that has very specific duties
23 for nine different fire protection related positions. They are not all in the fire
24 brigade, but they are different positions that get involved if a fire emergency
25 occurs at a plant.

26 The second one is that we identified the Fire Protection
27 Program manager as the senior manager reporting to an appropriate nuclear

1 officer, as a matter of fact I think the words in the sample that we sent said the
2 CNO, that for the sample case is the level that it would be to a nuclear officer,
3 and that was just to identify that the authority and responsibility level of that
4 individual is at a high level in the plant organization.

5 The Callaway procedure identifies that the top, the person
6 responsible, the manager responsible for the Fire Protection Program is the
7 manager of Nuclear Engineering, and again that decision may not have been
8 made at the time the COL application is filed. There are some other ones, too.
9 I looked at the fire brigade procedure and looked at the level of detail that was
10 in the FSAR versus what was in the procedure, and the procedure, obviously, as
11 you would expect for a plant that has a procedure that has been operating for 19
12 years now has a lot of detail to find that would not, especially, be available at the
13 time that a COL application or before the construction begins on the plant.

14 And those are things like very detailed, for example, number
15 of people in the fire brigade. The FSAR submittal, the example, that we sent in
16 has it says a sufficient number will be available and assigned on each shift for
17 the fire brigade. The Callaway procedure says specifically five people will be
18 on the fire brigade. And that's a number that has to be worked out with
19 development of fire fighting strategies and detailed procedures on how fires are
20 going to be addressed on the site.

21 MODERATOR CAMERON: All right. We'll do one more
22 and then we'll get back to you.

23 MR. BELL: I might just pick up with the 17 and then we'll
24 thank you for your indulgence and take a break and get some other ideas. Slide
25 17. What we would expect the staff to look at in a COL application would be
26 the information of the type AI just described for a Fire Protection Program and
27 review that information against the Standard Review Plan. If the staff elects, as

1 they did in the early site permit area, to create a review standard, obviously, that
2 would be an important tool.

3 In addition, there might be Regulatory Guidance more recent
4 than the referenced design certification that a COL applicant would need to
5 address and that the staff would certainly consider in evaluating accuracy of the
6 information submitted. And we have an example in that Fire Protection Reg
7 Guide 1.1.8.9, is it 1999 or something, so it certainly post dates the AP600 or
8 1000 design certification.

9 And again, the NRC's reasonable assurance finding, that
10 would be the review you would also expect at the time of COL the reasonable
11 assurance finding based on a review of the adequacy of that information as
12 reviewed against those standards, and keeping in mind the licensing process as
13 a whole, which provides the assurance that NRC requirements of public health
14 and safety would be satisfied prior to plant operation.

15 And that's kind of an overview of our perspective on how to
16 treat operational programs in Part 52.

17 MODERATOR CAMERON: Okay. Thank you, Russ.
18 Thank you, Al. Let me make a couple of suggestions here both aimed at
19 keeping us on a so-called back row level before we get into some details here.
20 One suggestion is that I would like to hear from Paul Gunter and Dave Ritter
21 about any perspectives that they have on Programmatic ITAAC issues,
22 generally, before we go on.

23 The second suggestion is it seems like the slide page, slide 10,
24 Russ, matches up with the -- it's an attempt to establish categories. I use that
25 term loosely. So I think that when we get to a discussion of categories, the NRC
26 has A, B, C, D and E. You perhaps have another way, have expressed another
27 way of looking at categories depending on when you need something. And I

1 think that's going to be a good discussion. So we'll do that.

2 And then, obviously, Al's details, level of details on fire
3 protection is the level of detail discussion. So it might be useful to hold
4 questions on the presentations until then, unless there is something burning now.
5 But what I would like to do is, you know, and, Jim, by burning, if it's burning,
6 it's burning.

7 MR. GUNTER: We're on fire protection, so.

8 MODERATOR CAMERON: That's a good point, Paul.
9 Good point. Let's go to Paul first, then Dave, and then perhaps just visit briefly
10 this question of function of Programmatic ITAAC and Russ gave a description
11 right at the beginning of what he thought the function was all about here. Let's
12 have a discussion of that and then jump into the categories perhaps and, you
13 know, questions for Russ, Al, others at the table about that. But, Paul, why don't
14 we go to you, and then we'll go to Dave?

15 MR. GUNTER: Thank you. Well, let me start by saying
16 thank you, Chip, for inviting me to participate this afternoon. I have to admit I
17 am still on a learning curve and I will use this opportunity to move me along that
18 learning curve. But I think that it is ironic that we should start out the discussion
19 on Programmatic ITAAC with fire protection being chosen as the pilot. And the
20 reason being we have a concern that the ITAAC process may be more of a road
21 map centered on completing construction, rather than centered on public safety.
22 And I think the fire protection issue is quite apropos to pointing out this concern.

23 First, let me point out that the evolution of fire protection in
24 the current generation of plants has been a moving target since its inception, and
25 the long standing and running gun battle around Appendix R goes on today.
26 We've seen the issue of Appendix R 3-G-2 for fire barriers, systems, three hour,
27 one hour and separation with no intervening combustibles constantly and

1 perpetually contested. Going from the Thermalag Fire Barriers, kale wool, any
2 number of materials and indefinite fire watches and now moving into the issue
3 of noncomplying operator manual actions, it would seem that the attempts at
4 resolution of fire protection issues is intractable.

5 So going into the ITAAC process with the fire protection
6 model, it is daunting for the public to have any confidence in it, because we've
7 seen and continue to see the inability to bring the plants into compliance. And
8 that's why I have this concern about whether or not the ITAAC process is
9 opening, you know, more dialogue, more changes that are not necessarily to
10 benefit decreasing risk and therefore public health and safety protection. But
11 instead fall into the process of a road map for completing construction.

12 And again, you know, let's look at the issue of branch
13 technical position 9.5.1, which is outlined in the model here, and I guess the
14 question that I have is as it is laid out here 9.5.1 provides for non-combustible
15 fire barrier penetration seals in the Callaway model. When, in fact, by rule
16 making, the NRC has removed the combustibility requirement. So if somebody
17 could enlighten me on how the model incorporates something that's dated by the
18 NRC's own rule making process, I would certainly appreciate it.

19 And I think that's about all that I will say for now.

20 MODERATOR CAMERON: Okay. And before we go to
21 Dave, just let me make sure that we all understand the implication of what you're
22 saying, Paul. One thing that it seemed like you're saying that the emphasis on
23 ITAAC should not be on -- it should be on activities related to completing
24 construction, rather than operational, at this point?

25 MR. GUNTER: Well, here's the concern. The public has
26 been effectively removed from the intervention process during the construction
27 phase. And that was an issue for industry and remains an issue for industry

1 during the earlier constructions. And we did see that as an avenue for bringing
2 up concerns that now ITAAC seems to be trying to fill the vacuum for.

3 MODERATOR CAMERON: Okay. And let me ask the NRC
4 staff just so and, you know, I'm also demonstrating my ignorance here, but I just
5 want to make sure that all this is clear to everybody. The issue of completing
6 construction, Joe, that takes us outside of operational or Programmatic ITAAC,
7 right? Is that correct?

8 MR. SEBROSKY: Yes, when I heard Mr. Gunter's
9 discussion, I was a little confused, and I'll explain the basis for my confusion.
10 If you look at the AP600 or AP1000 as an example in the fire protection barrier
11 designs, we have that information available to us. So the Fire Protection
12 Program that is part of design certification, we look at that. For example, we
13 look at things such as separation and there is things that you can do with a
14 design from scratch that is hard to retrofit on a design that's been completed.

15 But there is a heavy reliance on the three plants that we have
16 certified so far where we've completed the reviews, the ABWR system 80+ and
17 AP600 on separation. And to try to minimize fire protection barriers and things
18 like what you had described.

19 MR. GUNTER: But penetration seals would be another. You
20 know, again, I would like to take this opportunity to query on the Callaway
21 model incorporating the non-combustibility requirement.

22 MR. SEBROSKY: Yes, and that's an area that, I guess, I'm
23 going to be looking for help from the staff on that, because I am not a fire
24 protection expert, but the issue, I guess, that I was trying to get back to is under
25 the Part 52 Licensing Process. If there is a question about a particular design,
26 the fire barrier design that the AP600 or AP1000 or ESBWR rely on, there is
27 opportunities during the design certification phase to raise those questions and

1 to try to resolve those issues before the ITAAC gets set for those.

2 If you look at the ITAAC for the AP600, for example, you will
3 find that there is ITAAC associated with cable separation, because it's part of the
4 fire barrier. You find that there is ITAAC on concrete thicknesses, because,
5 again, it's part of the fire barrier.

6 What you don't find is ITAAC related to the fire brigade, and
7 the reason that you don't find that is because we didn't look at that during the
8 design certification phase. We intended and do intend to look at that during the
9 combined license phase, because that is when we expect that information to be
10 available to us.

11 So when you were talking about some of those issues that you
12 had some questions about, the thing that it brought to my mind was in the Part
13 52 Licensing Process, they may not -- they are covered in different areas. If they
14 are related, for lack of a better word, if they are related to hardware, they are
15 addressed in the design certification phase. If they are related to programs, that's
16 the reason that we're here. We're trying to figure out what, if any, ITAAC we
17 need on the program aspect, because we think we have some pretty good models
18 for the hardware related.

19 MODERATOR CAMERON: Okay. I just wanted to make
20 sure that everybody understood that one of the concerns that Paul expressed was
21 related to an area outside of the programmatic ITAAC, obviously, important, but
22 it's not --

23 MR. GUNTER: But we are here to talk about ITAAC used
24 to verify that the facility has been constructed as it was designed.

25 MODERATOR CAMERON: That's correct, right.

26 MR. GUNTER: So correct me if I'm wrong. I'm not confused
27 in that we are here to talk about areas in a Programmatic ITAAC that would

1 verify and test and analyze, so that, you know, the issue of program and as
2 constructed are consistent.

3 One area, for example, with regard to the fire protection issue
4 for penetration seals, I mean, are we talking about, in this context, introduction
5 of tests that would verify that penetrations seals, for example, are full thickness?
6 Is that part of the Programmatic ITAAC, so that the seals are of proper thickness
7 in penetrations?

8 MR. SEBROSKY: That typically would be part of the design
9 certification. It would typically fall under hardware. So when you say
10 programmatic, my definition of programmatic is a little different than, I think,
11 your definition of programmatic. My definition of programmatic is things
12 related to things that you would expect a licensee at the site to have, things like
13 fire brigade, fire protection engineer qualifications.

14 MR. GUNTER: How about testing equipment?

15 MR. SEBROSKY: Testing equipment. You get in gray areas
16 where a portion of that may be programmatic and a portion of that may be
17 design related.

18 MR. GUNTER: Well, let me just speak clear in closing by
19 trying to put it into an example. 9.5.1 has been extremely problematic with
20 regard to penetration seals and voids, combustible materials or missing seals
21 altogether, missing damming board. It would seem that an appropriate ITAAC
22 would include such things as nondestructive analysis for evaluating how
23 thorough and qualified these seals are. And right now, I don't get the sense that
24 a lesson has been learned in transferring to an ITAAC if we're talking about
25 visual inspections solely.

26 MR. SEBROSKY: Yes, and I guess maybe, Chip, for the
27 example of penetration seals, we can put that in the parking lot and try to get the

1 fire protection engineer to answer those questions.

2 MODERATOR CAMERON: Yes, I have combustibility, the
3 first point that you raised about whether there is still combustibility requirement.
4 Penetration seals are in the parking lot now, and when we get to fire protection,
5 let's get one of the fire protection engineers up to talk about that. But I think
6 Paul has illustrated an important point here, is that there is Programmatic
7 ITAAC, which is the main topic today, which are process procedures,
8 operational types of things.

9 MR. GUNTER: Correct.

10 MODERATOR CAMERON: And then there is using a term
11 you're sort of unsatisfied with, but then there is the hardware design. I don't
12 know how you would characterize that, but you also indicated that there is a gray
13 area in between. So I think that's a useful perspective for people to remember,
14 what Programmatic ITAAC really means, and that there is a gray area. So, Paul,
15 can we --

16 MR. GUNTER: Yes.

17 MODERATOR CAMERON: We'll move on. We have those
18 items in the parking lot. Dave, perspectives on this?

19 MR. RITTER: Yes, well, I have less experience on this
20 probably than most people here, but I would guess Public Citizen's position is
21 going to be, essentially, the same as that of yours and Paul's. What little I can
22 elaborate on seeing that I'm behind in the learning curve, even more on some of
23 the minutia and details of this ITAAC, is our concern that as this goes along, we
24 don't want NRC to move further in a direction that would allow them to become
25 more of a rubber stamping organization, agency that would allow the industry
26 to regulate itself, and as this process goes along we would lose opportunities for
27 the public to offer substantive and meaningful comments and to be able to

1 participate in the process in a meaningful and substantive way where they could
2 actually change the direction of what is happening on any particular reactor,
3 particular site.

4 So, I think, that is our main concern in general terms regarding
5 ITAAC, that it would be something where the NRC would be abdicating their
6 responsibilities in giving those over to the industry.

7 MODERATOR CAMERON: Okay. Thanks, Dave. Maybe
8 that takes us into -- and it may be a short discussion. What function is ITAAC,
9 Programmatic ITAAC, supposed to serve and picking up on Dave's point, I
10 suppose that one of the implications of how you approach the Programmatic
11 ITAAC issue is what are the implications for public participation of using
12 different models, so to speak?

13 And I'm going to ask Joe. Joe, Russ Bell's slide, I think that
14 he stated the function of a Programmatic ITAAC. You didn't use those words,
15 I know.

16 MR. BELL: I certainly would not have used those words.

17 MODERATOR CAMERON: Right, I know, but the function
18 that we're trying to address here, okay, in this discussion is providing reasonable
19 assurance that their operational program will meet NRC requirements, and I
20 suppose we can tie in Dave's point about public participation.

21 If there are implications from using the different models of
22 providing reasonable assurance, one would argue that different types of public
23 participation might provide reasonable assurance perhaps than other types, and
24 I'm just trying to tie this together. And I'm going to ask Joe.

25 Joe, did you want to talk a little bit about what the NRC staff
26 concern is behind having Programmatic ITAAC?

27 MR. SEBROSKY: Yes, I guess I will go to the --

1 MODERATOR CAMERON: Go ahead.

2 MR. SEBROSKY: Could you put up slide 14? The reason
3 when I said hardware related ITAAC and you looked at me and said no, it
4 looked like that was something that was painful to you to say, the reason that it
5 was, if you look at our regulations, we do not differentiate ITAAC from
6 hardware and programs. There is no differentiation in Part 52. It just says
7 ITAAC, and it gives you the definition of what ITAAC is supposed to do.

8 When you look at the Part 52 Licensing Process and the
9 implications for public involvement to address what Mr. Ritter and Mr. Gunter's
10 concerns are, and you look at this chart, you see two places for public
11 involvement related to a hearing. Right here, you see a mandatory hearing prior
12 to the NRC decision.

13 Now, if the Public Citizen groups are not satisfied with the
14 construction of the ITAAC, they have the opportunity at this mandatory hearing
15 to say, for example, we think you need ITAAC on the fire brigade, what the fire
16 brigade looks like and the qualifications of the fire brigade using this as an
17 example and the implications for it.

18 So we would expect the Public Citizen's comment would say
19 or could say potentially that maybe we think you need ITAAC associated with
20 the fire brigade, and the industry's position has been no, you don't. You don't
21 need ITAAC associated with that.

22 If we resolve the issue such that you do not have ITAAC
23 associated with the fire brigade at this mandatory hearing, when you come to
24 this optional hearing after the plant has been constructed and an intervenor wants
25 to raise a contention and say I think that we should have this hearing. This is an
26 optional hearing. It's not a mandatory hearing. I think we should have this
27 hearing, because I don't think that the fire brigade meets the qualifications that

1 were discussed.

2 If there is no ITAAC associated with the fire brigade, you
3 don't get this hearing. If you look at the 52.103 process, this optional hearing
4 is tied to whether or not you can demonstrate that an acceptance criteria has or
5 has not been met or has not been met. You have to provide a prima facie
6 evidence that an acceptance criteria has not been met.

7 So if you, for example, on the fire brigade, say I want a
8 hearing on the fire brigade, if there is no ITAAC associated with it, you don't get
9 the hearing. So the ramifications for public involvement are that's one
10 ramification associated with this optional hearing. That was my attempt to
11 answer the question, and I don't know.

12 MODERATOR CAMERON: Okay. And I don't necessarily
13 want to get us off on purely public involvement here. We have some cards up
14 that we'll go on first to Ron, but just to provide some discussion of the function
15 that you think, the staff thinks, will be served by having a Programmatic
16 ITAAC.

17 MR. SEBROSKY: Well, we originally did not differentiate
18 between programs and hardware, and if you got to that mandatory hearing stage,
19 the staff's original vision was it was more of a holistic version, because, like I
20 said, there is not in the rule hardware and program separation. The Commission
21 gave us direction.

22 They disagreed with our position, and that is what we're trying
23 to figure out now when you talk about Programmatic ITAAC, is what level of
24 information do you need such that you get to this stage that you have sufficient
25 information, such that you don't need an ITAAC on fire protection. That's what
26 the Commission asked us to look at.

27 MODERATOR CAMERON: Okay. And before we go to

1 Ron, when you said you had a more holistic taking, a more holistic viewpoint,
2 is that similar in any way to what Russ Bell presented?

3 MR. SEBROSKY: No, that's NEI's interpretation, and they
4 can speak for themselves, but if you go -- that's the reason that we wrote the
5 SECY paper. The staff basically, in the SECY paper, provided its interpretation
6 of Part 52. NEI's position was also known to the Commission where it treated
7 hardware related ITAAC, hardware was subject to ITAAC and programs was
8 not.

9 MODERATOR CAMERON: I was just thinking back to
10 Russ' slide where he said look at the licensing process as a whole, and I just
11 wanted to make sure that there was a distinction when you used the word
12 holistic. Okay. And we can come back and explore that, but let's go to Ron and
13 then we'll go to Ben and then Paul and then Russ. Paul?

14 MR. SIMARD: Chip, the reason I raised my card when Joe
15 was describing that hearing that takes place at the end of construction is just to
16 remind us during the rest of our discussions here that the public has a parallel
17 process, too. In that example, recall the Fire Protection Program has to be
18 effective as soon as the first fuel is received on site.

19 So if there was a concern about the adequacy of the Fire
20 Protection Program, I would hope that the concerned party wouldn't wait until
21 the end of construction and this hearing to bring it up. My point is that as soon
22 as the NRC issues this combined construction and operating license, interested
23 parties or people with concerns have the same mechanisms they have today for
24 an operating plant like the 2.206 petition process.

25 So I just thought it might be useful to keep that in mind,
26 because this is a great chart, but what it fails to acknowledge is the fact that the
27 public has these other opportunities.

1 MODERATOR CAMERON: Okay. Thanks, Ron. Ben?

2 MR. GEORGE: The programs that we're talking about, that
3 the NRC has proposed that we have ITAAC on all required by regulation. So
4 I personally view ITAAC as a dual regulation. They currently require review of
5 our regulations, the regulations require that they review our submittals to meet
6 the Standard Review Plan, the Reg Guides, etcetera, etcetera, that are required
7 by them to come to a reasonable assurance finding.

8 What we are proposing here in our proposal is to provide you
9 not only that, but also how we plan to implement those programs, which is what
10 we feel the NRC Commission has asked you to do. The level of detail issue like
11 Russ Bell and Joe also mentioned is a slippery slope. I mean, how much detail
12 do you want?

13 I have 5,000 procedures in place right now to operate a nuclear
14 power plant, specifically, over 500 of those are related to fire protection. It's an
15 exhaustive list of detail and if you look at the way the NRC review structure is
16 set up, the NRR people are required to review per their own guidance the
17 program and plan, and the regional people review the implementation and
18 procedures associated with that plan.

19 And I'm looking right now at the NRC inspection procedure,
20 and I'll quote the number to you, 64704 out of the NRC Inspection Manual. It
21 talks about the role, the responsibilities of the regional people are to review the
22 implementation and procedures associated with implementing that plan.

23 With NRR being -- you might surrogate the responsibility and
24 authority to approve the overall Fire Protection Plan, and that is a structure that
25 we're proposing here before you today is that we view ITAAC for programs as
26 redundant regulation. I don't need to pay twice for reviewing the same thing.

27 Secondly, I want to make a comment on the public

1 participation issue. They certainly have a right to challenge our Fire Protection
2 Program at the COL stage just like the NRC has. But also, there is numerous
3 avenues for them to participate during construction. NRC will issue inspection
4 notices. They will also issue 52.99 notices on ITAAC completion. Inspection
5 reports, they can file allegations. They can enter our Licensee Concerns
6 Program. They can file a 2.206 petition. There are numerous ways for them to
7 participate in the Inspection Program of all the programs, as well as ITAAC
8 during construction, not to mention the fact of a mandatory hearing at the end.
9 So anyway, those are my comments on what has been said so far.

10 MODERATOR CAMERON: Okay. Thanks, Ben, and that
11 might be your first point about dual regulation, not to focus necessarily on the
12 dual regulation part of it, but when we end this particular discussion, that may
13 be the best way to get into a discussion of the NRC and the industry proposal,
14 and I would like to ask Joe and Jerry, Jim, whoever would like to talk about it.

15 Hearing Russ' presentation, hearing what Ben just said, what
16 concerns, I guess, does the NRC staff have with doing it the way the industry
17 has proposed or why do we think we need the Programmatic ITAAC? But I
18 want to go to Paul and then to Russ before that. Paul?

19 MR. GUNTER: I'll be brief, but I think the question here and
20 the concern is about the availability of information both at the public
21 intervention process and with regard to Agency oversight.

22 Ben, I thought I heard you say that the mandatory hearing
23 process came at the end, but we're clear that the mandatory hearing process
24 comes prior to construction.

25 MR. GEORGE: Yes, there is two opportunities for hearings.

26 MR. GUNTER: Well, the mandatory.

27 MR. GEORGE: You're correct.

1 MR. GUNTER: But the mandatory hearing process occurs
2 prior to construction?

3 MR. GEORGE: You're correct.

4 MR. GUNTER: And with regard to the opportunities and the
5 quality for public participation during the construction, again, it's our concern
6 that we have been effectively, and I will reiterate, effectively cut out, and that
7 is because the opportunity for public participation is considerably degraded
8 under 10 CFR 2.206. Let's be clear that there is no discovery process and no
9 cross examination with the NRC basically as the middle ground, and that is quite
10 a different process than an intervention.

11 So the public has a great deal to be concerned about with
12 regard to problems, qualification issues, whistle blower allegations that the
13 public wishes to become involved in during construction. These are all
14 effectively cut off from us, and I just wanted to be clear on that.

15 MODERATOR CAMERON: Okay. Thanks, Paul. Russ?

16 MR. BELL: I think I wanted to just highlight something that
17 we in the staff agreed on at our May 22nd meeting. How's that?

18 MODERATOR CAMERON: That probably would be useful.

19 MR. BELL: And I think it's important. The staff, based on
20 the Commission SRM, I think, would agree that not all programs will have
21 ITAAC on them. They have already identified Maintenance Rule and ISI/IST
22 as two programs that, because of their timing and implementation, don't make
23 sense. So there will be programs that don't have ITAAC on them.

24 The point I wanted to make and the point we agreed on on
25 May 22nd is that whether there is an ITAAC or not, and this goes to Dave's
26 point and Paul's, I think, there will be the usual rigorous NRC inspections of the
27 licensees' program implementation, construction implementation, set aside

1 ITAAC for a minute, all the usual inspections, detailed construction and
2 program inspections that the staff has always done, they will do, and if there are
3 any problems, they will be -- you know, the corrective action process and the
4 enforcement process to get those problems addressed. And I just think that's
5 important to keep in mind, and it was a point of agreement that we in the staff
6 had on May 22nd.

7 MODERATOR CAMERON: Okay. And, Paul, let me just
8 hold for just one second, then go right to you. With that point of agreement for
9 our discussion now, let's get into this here. Joe, you may be the best person to
10 do it and I'm going to go to Paul first, but what is the nature of the concern that
11 we have with the industry proposal? And I guess I would ask, in getting into the
12 category, is there any category for the industry? Is there any category where you
13 would agree, any program that you would agree that yes, we need a
14 Programmatic ITAAC or are you proposing an equivalent to a Programmatic
15 ITAAC?

16 Now, before we go to Joe and then to Russ, Paul, what did you
17 --

18 MR. GUNTER: Given that, let's say, in the event that an
19 ITAAC is presented and goes through considerable changes, does the ITAAC,
20 if the public has problems with this malleable ITAAC, let's say, as it comes up,
21 can the public raise issue to an ITAAC that has gone through the vetting with the
22 NRC and the industry after or once the ITAAC has come out of that, is it then
23 sentenced on in terms of the public's ability to approach it and challenge it.

24 And I guess a sub-question to that is do we, indeed, have an
25 opportunity to raise any issues with the changes into the ITAAC through a
26 license amendment process? I just want to get that clear.

27 MODERATOR CAMERON: Okay. And now, we're going

1 to go to Jerry Wilson for that and remember the context that Paul is asking in
2 here, too. He is using the term ITAAC, not necessarily Programmatic ITAAC
3 or the other ITAAC, the hardware design ITAAC that Joe talked about, and he
4 is not necessarily talking about whether there should be a Programmatic ITAAC.
5 He is going back to the point he raised earlier about if you have an ITAAC, how
6 subject to change is that and what rights would the public have to challenge
7 changes, I guess. Jerry?

8 MR. WILSON: Yes. First of all, the idea of ITAAC is that
9 once there is an agreement reached between the Agency and the applicant on
10 what the ITAAC says, it's intended that it not be easily changed. I would
11 disagree with Paul in his choice of the word malleable. We think it's pretty
12 fixed, but that doesn't mean it can't be changed. But the idea is that there would
13 be an agreement in advance on what is going to come under ITAAC. Is it going
14 to be demonstrated by an inspection, test or analysis and what the acceptance
15 criteria are.

16 Now, those ITAAC can be in a couple of different categories.
17 If the applicant references a certified design, some of the ITAAC would be
18 developed during the design certification process and challenges to that wording
19 would be done during the rule making for design certification or during meetings
20 on the preparation of the ITAAC.

21 Other ITAAC in the example I gave earlier would be
22 developed at the combined license stage, such as emergency planning. And so
23 there would be a hearing prior to the issuance of the combined license in which
24 interested parties could challenge the wording, at that time. Once that hearing
25 was completed, the agreement on the ITAAC is made and the intent is that it
26 would stay the same through the construction process.

27 Now, we have had a lot of discussion that things may arise

1 where a request would be made to change it, but the intent is to restrict that. So
2 let's take ITAAC that are in the design certification. That's Tier 1 material and
3 that has a very high change standard, it could be done, but it would be difficult,
4 or if it's ITAAC that's developed at the combined license process, as we
5 discussed earlier, it would, in effect, be a license amendment with hearing
6 opportunities coming along with that.

7 So to address Paul's point, I believe that if, in what I think is
8 a fairly unlikely scenario, that it was intended, attempts were made to change the
9 ITAAC once construction was initiated, the public could still participate in those
10 changes.

11 MODERATOR CAMERON: Okay. Thanks, Jerry. And,
12 Paul, we hear your concern on that, and hopefully you got an answer to the
13 concerns, but I think, at this point, we're just going to put that one to the side and
14 join the major issue here. And, Joe, what are the NRC concerns with the NEI
15 proposal, and is there any way that the twain can meet here, so to speak, or Jim,
16 if you want to start us off on that, you can.

17 MR. LYONS: I guess, let me start off, I guess, back to what
18 I was thinking about before, which I think fits right in here, because when we
19 were discussing the Programmatic ITAAC back when the Commission paper
20 came out and, you know, we were discussing with the industry and we were
21 discussing with the Commission, one of the main pieces of information that the
22 industry was putting forward was is that at least in the foreseeable future that
23 any new plant would probably be built on the site of an existing plant, and that
24 those programs that we were considering and we were discussing were already
25 in place at that site and would probably be, essentially, the same programs that
26 would be used at the new plant.

27 And, therefore, at the time of the combined license stage or the

1 combined license review, all that information would be available to the staff,
2 that there would be procedures that were already developed and they would just
3 be brought over and in my discussions with the Commission, I think they also
4 felt that that information was already there, that there would be no problem for
5 that information to be available to the staff for its review as part of the combined
6 license process.

7 And, therefore, the staff would be able to make a final
8 determination on their programs at the COL stage, and then having set that
9 program fairly much in stone as part of the combined license process, that then
10 the implementation of that program as they actually were needed during the
11 construction process, as we were talking about, fire protection would have to be
12 in place when the first new fuel was received on site, the same with security,
13 those types of programs, that then we would use our normal inspection process
14 to verify that those programs were, in fact, the way we had reviewed them at the
15 COL stage.

16 And so, I think, that that tempered the way we looked at and
17 put together our proposal of what information we would expect to see.
18 Obviously, we didn't expect to get down to the very, very detailed procedures.
19 We knew that some of those would necessarily need to be developed, you know,
20 as the site was constructed and as the organizations were finally put into place.

21 So I think that that kind of lays the groundwork for, you know,
22 where we try to come up with a framework by which we would be able to add
23 that combined license phase.

24 MODERATOR CAMERON: Joe, do you want to add
25 anything to that? Again, the issue is -- and we have the slide 10 from the NEI
26 presentation here and there is a beginning of some categorization, but I take it
27 that all of the information that would be presented in any of those time frames

1 would be presented in connection with the -- there wouldn't be anything called
2 a Programmatic ITAAC. It would all be presented in the FSAR or how would
3 you characterize that?

4 MR. BELL: Yes, the program descriptions and discussion of
5 when those would be implemented would be described in the FSAR.

6 MODERATOR CAMERON: Okay. And Joe or other NRC
7 staff, what gives us more? Going back to function of reasonable assurance, what
8 gives us more assurance, more comfort to use that word if at least for certain
9 categories of program, maybe even one program, it might not be fire protection,
10 but whatever, what gives us more comfort by having something called a
11 Programmatic ITAAC rather than the information as contemplated by the NEI
12 proposal?

13 MR. SEBROSKY: I guess the example that I would use is
14 one area where we think programmatically where we will have ITAAC. That
15 was our Category A and the program that falls in that is emergency planning.
16 That is specifically called out in our regulations and also in the Atomic Energy
17 Act.

18 And going back to Ben's point about dual regulation, we never
19 saw ITAAC on emergency planning as a dual regulation. We looked at ITAAC
20 or we do look at ITAAC on emergency planning the same way that we look at
21 ITAAC related to hardware. Getting back to Jerry's point, prior to the combined
22 license being issued, the staff resolves with industry and interested members of
23 the public what the ITAAC are. You agree on the program and you make
24 commitments to do certain things, and some of those commitments, if you take
25 hardware, for example, you say I will build a base mat that is 10 feet thick, as
26 an example, and our review is based on a base mat being 10 feet thick. Our
27 acceptance is based on that.

1 And what we have done with design certifications is we say
2 well, we are going to come to agreement with industry that we will have an
3 ITAAC to confirm that the as-built design that was constructed is in
4 conformance with what was described to us during design certification. So we
5 always looked at ITAAC not as dual regulation, but as a verification that the as-
6 built design was constructed properly.

7 Now, when you take that to programs and you look at
8 emergency planning, the way we thought that it would work would not be any
9 different than the hardware. Prior to a combined license being granted, the staff
10 and the licensee would agree on the Emergency Plan and part of that would also
11 agree on the inspection staff's analysis and the acceptance criteria that would be
12 verified later.

13 So we looked at ITAAC not as dual regulation, but as a
14 verification program. And getting back to the original, I think, one of the
15 questions that Chip had asked is if you go to the SRM, the SRM, the first
16 sentence in the Staff Requirements Memo is the Commission has disapproved
17 the staff's proposal that the combined license application submitted in
18 accordance with it must contain ITAAC for a wide range of operational
19 programs.

20 The Commission's view was it's much more limited. They
21 spell out emergency planning, so they seem to agree with us there that
22 emergency planning should contain ITAAC, but for the rest of those operational
23 programs, they give us direction and what we have had discussions with industry
24 in public meetings about is the issue about what fully described means. And the
25 reason that that's important is the way it's written in the Staff Requirements
26 Memorandum. The Commission states that an ITAAC for a program should not
27 be necessary if the program and its implementation are fully described in the

1 application and found to be acceptable by the NRC at the COL stage.

2 So the staff looks at that and says okay, the program and its
3 implementation are fully described. We look at implementation and we think
4 we need something beyond what is typically provided in FSARs. We think we
5 need some of the implementing procedures, and that is what Jim was talking to
6 earlier, that the staff's belief is that it shouldn't be that high of a burden.

7 And the disconnect that we have with industry right now is if
8 you look at their proposal, I think, we can discuss for a later day the level of
9 information that would typically be provided in a FSAR. That to me is a minor
10 issue compared to the disconnect where NEI's position is you shouldn't get
11 implementing procedures at the time of the COL application, you don't need
12 those, in some cases they would not be available, and our position that to be
13 consistent with what the SRM says, that there should be some additional
14 information provided.

15 MODERATOR CAMERON: Okay. Good. That is a very
16 good summary. And first of all, level of detail, we had a wonderful presentation
17 by Al on level of detail. We may not get to the level of detail issue today, but
18 I think that maybe we can fully discuss this particular issue and to just
19 paraphrase Joe, or at least certain programs, and the program that was suggested
20 was emergency planning, that staff needs to look at implementing procedures,
21 and that the Programmatic ITAAC will give us, set forth, all of those
22 implementing procedures.

23 Now, if the SAR, and we'll come back, you know, Eddie, Ron,
24 Ben, you may address this, but if the SAR had implementing procedures, I guess
25 my question is would you still need a Programmatic ITAAC? And let's go to
26 Eddie and then Ron and Ben and see what we can get on this issue. Eddie?

27 MR. GRANT: Unfortunately, this whole issue comes back to

1 Mr. Franz' question earlier that we wanted to defer, and that's a question of what
2 is the licensing basis? You know, how much of this information is going to fit
3 into that? And therein lies the disconnect that, I think, you are referring to.

4 As I understand, and the difference here to Mr. Gunter or
5 Ritter, I believe it was, we're somewhat all on the learning curve with regard to
6 ITAACs, and so we haven't issued any yet for a COL. We'll all figure it out as
7 we go. But as I understand ITAAC on a design certification, for instance, the
8 ITAAC are a subset of the information that is provided on the docket as part of
9 the design licensing basis, if I can use those terms. They are not exact, but I
10 think the point gets across there.

11 Whereas, as I understand it here, we're talking about providing
12 a considerable amount of information that is beyond the current licensing basis,
13 apparently, on the docket. If it's not on the docket, then I'm not sure that it's of
14 much use to you. But if it is on the docket, then we have considerably expanded
15 the licensing basis for these plans, and that is a major concern for the utility.

16 It seems to me that under Part 50, we had a licensing basis.
17 We provided you a certain amount of programmatic information and
18 implementation information, and that information was verified during
19 construction prior to the operating license being issued and it was verified
20 through inspection, and that can continue to be done today as we provide you a
21 similar amount of information with regard to the programs and the
22 implementation.

23 You still have those opportunities to verify those through
24 inspection. The public still has the same opportunities for being involved under
25 those processes, and so those things haven't changed and the public certainly
26 hasn't been lessened in their opportunities.

27 But if we start putting a bunch of additional information into

1 the licensing basis, then we have expanded a considerable ways, and if we then
2 include ITAAC on top of those, we have changed again the burden on the
3 utilities in the negative manner, rather than in a positive manner, because we
4 have one more opportunity for that to be challenged that we don't have under
5 Part 50.

6 MODERATOR CAMERON: So in other words, when you
7 say beyond, going beyond the licensing basis, your concern is if you have more
8 of this type of information, it subjects the license application to more challenge?

9 MR. GRANT: Well, again, certainly that is a possibility, not
10 necessarily a requirement, but the whole point is that there are many plants out
11 there operating today with a level of detail that is there licensing basis, and we're
12 talking about creating a licensing basis that is considerably more detailed and
13 that is unnecessary. Rules with regard to what it takes to get a license have not
14 changed in that manner. There is nothing that indicates that additional licensing
15 basis is required.

16 MODERATOR CAMERON: Okay. So then that would be
17 an unnecessary burden in your point of view?

18 MR. GRANT: Correct.

19 MODERATOR CAMERON: Okay. Ron?

20 MR. SIMARD: Chip, while this slide is up, I just wanted to
21 make an observation about how our position has evolved since the last public
22 meeting and pose a question to the staff. This slide is good, because it shows
23 that since the last meeting, we went back and started thinking a lot harder about
24 this. And I think it's useful to look at the timing of when these programs need
25 to be implemented in focusing on how much level of detail you need.

26 In that first category on the slide, programs that need to be
27 implemented with COL issuance obviously need a considerable level of detail,

1 including perhaps all or pretty much all of the implementing procedures that you
2 expect to have. So in our thinking since our last interaction and since NRC put
3 that posting on their public website, it occurred to us that there is a class of
4 programs for which you need a considerable level of detail not only describing
5 the program, but also its implementation.

6 Then as we started looking further out to the programs that
7 need to kick in later in time, I think we were a bit distracted. We realized there
8 are a number of considerable problems with that, providing a level of detail
9 equivalent to what is in the procedures.

10 You know, Eddie just mentioned, for example, the questions
11 that this raises about what you are now sweeping into the licensing basis. In our
12 presentation, Russ Bell had a time line that talked about the practical difficulties
13 of being able to provide that level of detail.

14 But then we kind of stepped back from it and said well, wait
15 a minute, what is it that we're really trying to accomplish here? And let me
16 suggest to you that the reason we're here today yes, we're here, because the NRC
17 Commissioners have asked for some guidance for the staff, but I think if you
18 step back a bit and ask yourself what is the real issue, I would propose to you it's
19 the issues that, as Russ described them in the slide, namely what level of
20 information does the NRC need in a COL application to help make their finding
21 of reasonable assurance, recognizing that, you know, this is going to be coupled
22 with the ongoing inspection.

23 So let me get now to my question to Jim and Joe and the staff.
24 Okay? Let me phrase it in a personal way. To me, one of the problems I have
25 in understanding why we would need an ITAAC on programs is I don't see what
26 it accomplishes, because I look at this third category in our slide. What is it that
27 NRC staff would do differently in coming to their finding of reasonable

1 assurance on the Maintenance Rule, ISI/IST and so forth, that they would from
2 fire protection? Now, recognizing that an ITAAC physically, legally is not
3 possible there, what value or what need does it satisfy in other programs?

4 MODERATOR CAMERON: Jerry?

5 MR. WILSON: Yes. Well, first of all, and I think Joe made
6 this point from the staff's perspective, there is no distinction between regulations
7 that underlie so-called programs and regulations that underlie so-called
8 hardware. I mean, the purpose of ITAAC is to verify conformance with the
9 regulations.

10 So what purpose are we serving? We're serving that
11 verification purpose that has that program been implemented in the manner that
12 the applicant said they were going to implement it at the time they applied for
13 the license?

14 Now, getting into this and by way of background and focusing
15 on the NEI slide 10, I would agree with the first category and the third category.
16 Yes, there are programs that need to be in place and ready to go prior to the
17 issuance of the combined license, such as quality assurance, quality control, and
18 there are programs that can't be in ITAAC, because they take place after fuel
19 load.

20 And what is really the key factor here in ITAAC is that
21 decision that is made by the Commission on whether or not to authorize the
22 operation or more specifically, fuel load, so everything is directed towards that.
23 What are the regulations that are applicable to the authorization of operation and
24 how is that verified?

25 At the time we originally wrote Part 52, the industry requested
26 and the Commission agreed that that would be done under an ITAAC process.
27 That became the new verification process. So the intent originally was that there

1 would be, in effect, two steps, which is similar to the process for getting an
2 operating license.

3 The first step is the applicant describes how they are going to
4 meet those regulations. The staff reviews that and determines if that is
5 acceptable or not. And the second step is the applicant implements those
6 regulations, implements the FSAR as they said they were going to do, and the
7 staff under Part 50 inspected that and determined whether or not they did what
8 they said they were going to do. And if the applicant did what he said he was
9 going to do, then it was found acceptable. So the same kind of idea was
10 intended here.

11 Now, the Commission has decided that we should do
12 something different, and believes that, along the lines of what Jim was saying,
13 that information could be provided at this stage, so that that verification would
14 need to be done under an ITAAC later on. So what we're seeking here is what
15 is that, the level of information? We're trying to implement the Commission's
16 guidance.

17 Unfortunately, in response to Eddie's question, the
18 Commission didn't speak to this issue of what's in the licensing basis and I don't
19 believe the staff is ready to address that, at this point. What we're trying to do
20 is see if we can figure out how to implement the guidance as written.

21 MODERATOR CAMERON: Well, just let me ask some
22 questions here. I know, we all know, who work for the Commission, it's very
23 important for us to pay attention to what is in an SRM, but picking up on Ron's
24 point, which is you go back to what the real -- look at the real issue here of what
25 information is necessary.

26 Ron indicated that the NEI had thought about this and had
27 come up with these categories and, Jerry, I heard you say that the third category,

1 it's not limited, is they are designated at the third category, but programs not
2 required until after fuel load seems to correspond to NRC Category E for those
3 of you who have slide 19.

4 But, I guess, the more important question is maybe you can
5 agree that well, yes, Category E includes these type of programs. Does the NEI
6 Category 1, okay, keeping in mind that you may want to put some other program
7 in there, is the information that would be provided for those programs under NEI
8 Category 1, does that give the staff the type of information that they would be
9 seeking in a Programmatic ITAAC? And I guess that's a question for the NRC
10 staff. Joe?

11 MR. SEBROSKY: Yes, I guess, on slide 10 I go to the far
12 right column where it says "The programs described in the COL application,
13 program implemented and procedures available," and what we thought was
14 possible for the Fire Protection Program is we don't expect the program to be
15 implemented.

16 To have a fire brigade in place before you start construction,
17 we think, although possible, it's a burden that we wouldn't expect to place on an
18 applicant, but if you look at whether or not the procedures could be available,
19 and we looked at that and we said yes, we think that you could have procedures
20 available for the Fire Protection Program.

21 And the reason that we thought that that was important is
22 going back to the Commission's direction, and I know you are reluctant, Chip,
23 to go back to the SRM, but I will just read one sentence from there. The SRM
24 from the Commission said "The burden is on the applicant to provide the
25 necessary and sufficient programmatic information for approval of the combined
26 license without the ITAAC."

27 So getting back to what Mr. Grant was saying earlier about

1 possible changes in licensing basis, I look at that and I say well, there is a
2 possible change in a licensing basis for Part 52, but the reason that there is that
3 possible change is because industry doesn't want ITAAC.

4 Well, if you don't want ITAAC for fire protection, you don't
5 want ITAAC written for the NRC to verify, because you believe that we're going
6 to be doing verification through our normal inspection process, I guess, that's
7 fine, but there is real world ramifications for that. The acceptance, if you go to
8 that optional hearing that's after the combined license is issued and you don't
9 have acceptance criteria and you can't tie your contention to an acceptance
10 criteria, you're not going to get that optional hearing.

11 And I am going to be putting words in NEI's mouth, but from
12 my perspective, this whole issue on Programmatic ITAAC got back to
13 minimizing litigative risk. Industry, from their perspective, this is my read on
14 it, Joe Sebrosky's read on it, the reason that industry pushed Programmatic
15 ITAAC was to minimize litigative risk. If you don't have ITAAC on all those
16 operational programs, you have less of a chance of that optional hearing coming
17 to fruition.

18 So if you minimize litigative risk, which the Commission
19 disapproved our position, there is an equalizer in that. To minimize litigative
20 risk, if you guys want to minimize litigative risk, you're going to have to provide
21 us more information than you normally would have at the combined license
22 stage. That is the way I read it.

23 MODERATOR CAMERON: Okay. And let me go on with
24 all of you, that I guess the one question I think you need to answer is okay,
25 Category 1, NEI Category 1, fire protection isn't in there now. Okay? So that's
26 a question of what programs should be in Category 1? But if you just take one
27 of the programs that's in Category 1 now, NEI Category 1, is the information

1 that they would be providing for those Category 1 programs, is that --

2 MR. SEBROSKY: Is that A?

3 MODERATOR CAMERON: Well, no, Category A, NRC is
4 using Category A, B and C. We'll use numbers for these.

5 MR. SEBROSKY: Okay.

6 MODERATOR CAMERON: Is the information that an
7 applicant would give you for a Category 1 program, is that information the type
8 of information that you wanted to see, would want to see under a Programmatic
9 ITAAC? And that's, you know, not just a question for you, Joe, but I guess that
10 it's a question for NEI also. And you heard Joe's point about litigative risk. Let
11 me stop talking and go to Ben and then Ron or Ron and Ben. Go ahead, one of
12 you.

13 MR. SIMARD: Chip, excuse me, I didn't hear an answer to
14 my question. Let me rephrase it this way. Again, going back to the slide and
15 looking at those two bottom categories of programs, you know, we had foreseen
16 providing the same level of information on the program and the attributes of the
17 procedures, development and all of that for both fire protection and maintenance.

18 So in the case of the Maintenance Rule or ISI/IST, the staff
19 envisions issuing a combined license without having an ITAAC, why is it then
20 that you feel you might need an ITAAC on a program like fire protection when
21 one is not necessary for you to allow the plant to start up on its Maintenance and
22 ISI Programs?

23 MR. WILSON: The answer is that ITAAC is the basis for the
24 decision that's made by the Commission on whether or not to authorize
25 operation. Matters like Maintenance Rule that take place after fuel load and the
26 operation will be controlled via license conditions, so it will be controlled in the
27 license and we'll be looking at the implementation of that, but we'll handle it

1 through license conditions. What we're focusing on now are those regulations
2 that have to be in place and conformed with prior to authorization to operate.

3 MR. SEBROSKY: And the only thing I would add to Jerry's
4 point and, Jerry, you can correct me if I'm wrong and I will look to Bob
5 Weisman, too, you can correct me if I say something wrong, we looked at
6 Maintenance Rule and ISI and IST, and one of the things that was discussed was
7 under a Part 50 licensing, because you can still do that, you can still come in
8 under Part 50 licensing and request a construction permit and then request an
9 operating license.

10 Under Part 50 licensing process, to get an operating license,
11 would the staff say that you had to have the Maintenance Rule implemented and
12 the ISI and IST Program implemented? And the answer that we came up with
13 was no, but we would expect that those programs would be described, like Jerry
14 said, that we would have license condition.

15 Now, you take the same thing and you say for fire protection.
16 Begin an operating license today. Would you expect the majority of the Fire
17 Protection Program to be implemented under Part 50? And the answer that we
18 came up with was yes, you would expect that.

19 So when you get back to how we came up with our
20 categorization and why we were comfortable with putting ISI and IST in the
21 Maintenance Rule under Category E, and differentiate that between fire
22 protection and security and training, we looked at the analogous Part 50
23 licensing process.

24 MODERATOR CAMERON: I guess --

25 MR. SEBROSKY: The only thing I wanted --

26 MODERATOR CAMERON: I guess I would like to go to
27 Russ. There are a couple of issues. One is you heard Joe talk about emergency

1 planning. That is like a Category A given, okay, the same as the famous
2 "hardware." I guess I would like to hear what your view is on that, and I'm still
3 trying to figure out whether the information that would be provided under NEI
4 Category 1, put aside what program, they are under Category 1 for the moment,
5 but would the information provided there be the type of information that the
6 NRC wants, at that stage?

7 MR. SEBROSKY: The devil is always in the details, but the
8 short answer is yes, and the thing that I was focusing on is if you look at our
9 proposal, and we say procedures available, our proposal for fire protection took
10 the Callaway key implementing procedures that we thought would need to be
11 provided, and we, as I have stated before and Mr. Grant has picked up this point
12 and so has Mr. Franz, did not say where that information needed to be provided.
13 We didn't say it needed to be in the FSAR. We just said that that information
14 needed to be provided somehow.

15 And one of the options, you can say well, it could be provided
16 in the FSAR, and that would definitely change the licensing basis. Another
17 option, you could say, is that information could be available on site for the NRC
18 to do inspections, that it would not be docketed, that there would simply be a
19 statement that the fire protection implementing procedures, the core set of
20 procedures have been developed and they are available for the NRC to review
21 on site, and we would inspect those prior to issuing the COL.

22 So getting back to your original question, is that, those three
23 bullets there, the type of information that we're looking for? The answer with
24 those qualifications is yes, that's the kind of information that we were looking
25 for to resolve. If you look in Category C and D, there is eight programs,
26 security, fire protection and some other programs that we think fall into those
27 categories. That is the kind of information that we were looking for with the

1 programs.

2 MODERATOR CAMERON: Okay. Thank you, Joe. That's
3 very helpful. Russ, you have heard the discussion. What do you have to say, at
4 this point then, particularly on emergency planning, too?

5 MR. GEORGE: I guess the first point I would like to make,
6 Chip --

7 MODERATOR CAMERON: Go ahead, yes.

8 MR. GEORGE: If I could say a couple of words first is that
9 the industry has never necessarily acknowledged the fact that we need ITAAC
10 on emergency planning to implement effectively emergency planning. I mean,
11 I think the industry was willing to come forth with hardware ITAAC on EP, but
12 since it has become somewhat institutionalized in Part 52, I think the NRC staff
13 has resigned itself that that's going to be the way it is and we're acknowledging
14 that, I guess, up to this point.

15 Secondly, I would like to say about Jim's comment about
16 putting these plants at existing sites. Certainly, there is advantages to extend the
17 programs at those sites. Probably the only one that is purely programmatic that
18 we could give you the entire laws and procedures is Fitness for Duty. That is
19 totally programmatic and that does not involve a man, machine interface outside
20 of a collections station. But, I mean, that certainly is available.

21 The other things though, as Russ pointed out, we won't be
22 hiring a staff up until a point that we have reasonable assurance that we're going
23 to get a COL, so once you start looking at the man, machine interface issues and
24 development of detailed procedures, that's when those are going to evolve,
25 because the detail design remember, we haven't gone to that detail design level
26 yet in these programs.

27 Although, they will eventually be standard plants and rolling

1 out, but at least for the first one there won't be. But the man, machine interface
2 is where we have concern, and that's why you see the timing, the way Russ has
3 laid these out, why these programs will be rolled out as they are because of that
4 interface. But I want to speak to you that the Fitness for Duty Program, we
5 could have that on the table for you to look at, you know, at COL without
6 question.

7 And, I guess, the final thing I would like to say is about the
8 ITAAC. You know, relative to design, you talk about industry wanting to have
9 that in the design. That's where the industry has experienced the most problems
10 relative to regulatory certainty. In the past it has been in the design as you go
11 process that's inherent in Part 50.

12 And we don't think number one, it's as fair to the applicant, it's
13 fair to the public, it's fair to the rate payers or certainly, I can tell you it's not fair
14 in the eyes of our public service commission, as well. So we want to have, you
15 might say, a reasonable assurance that we, the plant, you know, can be built
16 successfully without a design as you go concept, because we're not going to be
17 stick building these plants anymore. They are going to be modular built, and the
18 stuff is going to be rolling into the site coming from a factory. So there is a lot
19 of, you might say, inherent safety improvements in the way we're going to be
20 manufacturing these facilities and bringing these facilities online. So, I guess,
21 that's my perspective on the hardware ITAAC issue.

22 MODERATOR CAMERON: Okay. Thanks, Ben. Russ, you
23 are the leader here in a sense, the NEI, the industry contingent and you have
24 heard the discussion that we have been having. Do you have any perspectives
25 to offer us?

26 MR. BELL: First, on EP, I would just like to reiterate what
27 Ben just said. The rule and Congress has said there shall be EP ITAAC, but,

1 Chip, we have not determined what that is going to look like. So the fact is there
2 are already emergency planning related ITAAC in the design certifications, and
3 what, if any, additional ITAAC are necessary to meet the rule and the Act? The
4 industry has not put forward a recommendation or discussed that with the staff.
5 That is a subject for another day.

6 On the notion of the existing site, it is likely that the first new
7 plants will go in existing sites. As Ben points out, it sounds like a simple thing
8 to do to just say well, we'll use the existing procedures at the new unit. There
9 may be very few cases where that literally or practically can be done, but we
10 need to take a broader perspective and not solve the problem for a particular type
11 of license applicant and ignore another type, meaning conclude that ITAAC may
12 not be necessary unless you're at a Greenfield site. So we have not taken that
13 tact to credit the information that might be available at a particular site.

14 Now, one other reason is, you know, rather than use the
15 procedures that North Anna -- I don't think Dominion is here to defend
16 themselves. At North Anna, Unit 1, and say that we're going to use those at
17 North Anna, Unit 3. Dominion may decide to use standardized procedures for
18 a number of different programs and just go a different way for that new unit,
19 which would be of a different design, a different organization, different level of
20 staffing. Such new procedures, standardized, streamlined might be the right
21 business decision for them to do. So we have not looked to that, to the existing
22 site scenarios as a solution to the problem.

23 Joe made a comment that one option would be to have
24 procedures on these programs available on site and that may satisfy staff, but,
25 you know, as much as you're trying to heed the Commission's guidance, I don't
26 see how that would meet the intent of fully describing the application. So it
27 seems that fully describing the application would mean that the information

1 you're after would need to go there, which raises Eddie's licensing basis issues,
2 and would seem to preclude the alternative of having the information available.

3 Now, that happens to be our view than when these procedures
4 become available either for the first few programs up there, they would be
5 available right away. For the middle group of programs, they would become
6 available later, that our vision is that programs would be described in the
7 application material. Procedures themselves would, as you say, be available on
8 site, so I had that reaction, as well.

9 And the notion that the industry is looking to minimize its
10 litigative risk, I don't think that should come as any surprise. That is what this
11 whole thing is about, changing, modifying the process to manage these
12 companies, to manage the risks. The NRC has acknowledged the flaws in the
13 process and produced Part 52 to meet those, and we're continuing to try and
14 figure out the details of that process.

15 But I don't think that's what this discussion is about. I think
16 the discussion is about what is necessary for the staff to make a reasonable
17 assurance finding. The Commission has said that the issue is not about litigative
18 risk. They have said that ITAAC should not be necessary for most, if not all of
19 the programs identified in the SECY, and also that the maximum number of
20 programmatic issues should be resolved at time of COL issuance.

21 So what remains is what is the information that the NRC needs
22 to make their reasonable assurance finding? The other thing, and this will be the
23 last, is the notion that well, the industry doesn't want ITAAC on programs.
24 Well, the industry is going to have to pay a price. They are going to have to
25 provide more information ahead of time if they don't want ITAAC on programs.

26 And I just have to take that head on, because one is an apple
27 and one is an orange. Okay? Whether or not you have an ITAAC, and there

1 will be programs that have no ITAAC and you will inspect them and they will
2 be deemed safe and effective prior to operation, whether or not there is an
3 ITAAC, the staff will make their determination. And if there is an ITAAC, it
4 provides you none of the additional information you're after in terms of making
5 the reasonable assurance finding.

6 If you're telling me that you need a Programmatic ITAAC, that
7 suggests to me that the staff does not have the tools it needs absent an ITAAC
8 to assure that the requirements are met, public health and safety is assured. That
9 is something that the staff and we have agreed on, that those tools do exist
10 regardless of whether there is an ITAAC.

11 So I have to take heed on the notion that this is an either/or
12 proposition, and that the industry doesn't want either of these things, meaning
13 either an ITAAC or the procedures. That is true, but they are two different
14 problems. ITAAC is used to verify something later on. The information you're
15 after is something you want to help make you make a reasonable assurance
16 finding up front. It's two very different times, two very different requirements,
17 mandates for the staff.

18 MODERATOR CAMERON: Okay. Thanks, Russ. We're
19 going to go to Eddie and Paul, but in the spirit of trying to maybe have this
20 meeting move us forward a bit, let me just pose three questions for you. I have
21 written them down up here and see if you can -- and I am using a grade with a
22 lot salt, a lot of caveats, okay, but I am making NEI Category 1 equivalent to
23 NRC Category A, at this point.

24 MR. GRANT: You don't mean Category A, do you?

25 MODERATOR CAMERON: In the NRC proposal. Well, let
26 me drop that for a minute. Could there be an agreement that whatever program
27 is ultimately included under NEI Category 1, does that provide the equivalent

1 information to a Programmatic ITAAC? I think you see where I'm trying to go
2 with this, and I know that you need to work out the details there, but at least
3 conceptually, do you think that that's true?

4 And, I guess, the second question is does everybody agree that
5 an emergency planning ITAAC is necessary, that the details need to be worked
6 out? In other words, would that be another NEI 1? It certainly is an NRC
7 Category A.

8 And the third question, is there an agreement on any -- are
9 there any programs that you could agree on that would be under NEI Category
10 1 or NRC Category A or am I just barking up the wrong tree with this? But
11 think about those, and let's go to Eddie and Paul, and I know we need to go to
12 you people in the audience, too, and we'll do that and I hope you enjoyed your
13 break.

14 But I think, at this point, we may want to -- do you guys want
15 to take a break now for five minutes or do you want to just go to 4:30? It's up
16 to you. I bypassed the break. I'm sorry.

17 MR. SEBROSKY: 4:30 is half an hour away. Let's just go.

18 MODERATOR CAMERON: All right. Now, let's go to
19 Eddie and then Paul, and then come back and tell me whether it's worth pursuing
20 anything in regard to those issues that I raised there. Eddie?

21 MR. GRANT: I will be brief. I just wanted to add a point to
22 what Russ was telling us there, and I would like to go back to remember, he told
23 you that our writing procedures is an intricate process, and because of that we
24 can, in our licensing basis documents, we can give you sufficient details, so that
25 you can make a reasonable assurance finding that we will protect the public
26 health and safety. We have done that for many years based on the information
27 that is in the current SARs and you can do it again based on the similar

1 information.

2 But as you indicated, the devil is in the details, and if we start
3 putting that kind of detailed information or, alternatively, if you put that kind of
4 detail in an ITAAC, either way as those iterations begin during the years while
5 we're doing construction, you have created an additional burden on both the
6 utility and on the NRC as we come to you and say okay, we have gotten around
7 to writing these procedures and they don't match up with the ITAAC. We need
8 changes.

9 So we're not sure that we see that this is, again, a step in the
10 positive direction, and why it is necessary to replace the inspection process that
11 has always worked so well for us.

12 MODERATOR CAMERON: Okay. Thanks, Eddie. Paul?

13 MR. GUNTER: I'll be brief, as well. Joe, when you raise the
14 possibility of providing the NRC's overview and oversight of the Programmatic
15 ITAAC by allowing NRC just to go on the plant site to review it, this raises our
16 initial concerns that it is first of all, this is a fast moving train moving away from
17 public involvement, public oversight, and the potential for the public to be
18 informed enough to raise legitimate potential safety issues arising out of the
19 construction and programmatic review. So by not docketing material, that is a
20 serious red flag on the field here.

21 MR. SEBROSKY: Yes, I guess, to respond to that, normally
22 right now, the way that we would inspect the Fire Protection Program at a plant
23 that has an operating license, we would go out and look at those implementing
24 procedures and make sure that the licensee is doing what those implementing
25 procedures say. Those implementing procedures aren't on the docket, but the
26 results of the NRC inspections are, and there is discussions both before and
27 after.

1 I threw that out as an idea, and I understand your reaction to
2 it, and I also understand NEI's reaction to it is that it's not necessary at all to
3 have that information, and your reaction to it as well, and I think you also
4 understand that if we went down that road, we would make the inspection report
5 results publicly available, but I understand your concern there and I also
6 understand what Russ was saying that you get back to the program and its
7 implementation are fully described in the application.

8 And I understand Russ' point, but at this point, I agree to
9 disagree. Russ sees those two issues as separate, apples and oranges, it's in
10 ITAAC either/or. I look at them as totally connected, that basically the
11 Commission told us that, although, an ITAAC for a program should not be
12 necessary if the program and its implementation are fully described, and when
13 we looked at that sentence, we connected those two issues. When I say we,
14 that's the NRC staff.

15 So we don't see them as separate, that if you don't want
16 ITAAC, you got to fully describe the program, which you would normally do
17 in an FSAR. Forget about ITAAC for a second. The expectation is that if you
18 go to our proposal, that you will provide us FSAR type level information.

19 The second part of that is in the implementation. We believe
20 the Commission is asking for additional information above and beyond what
21 would normally be supplied in the FSAR. That's the way we read it, and that is
22 in lieu of getting ITAAC for that program.

23 MODERATOR CAMERON: Okay. Thanks, Joe. And I just
24 want to go back to these three points, and just look at them as sort of symbols
25 of progress. They don't need to be the questions or the issues that you agree on,
26 because I could be totally wrong about this, but I guess I would challenge you.
27 Is there anything based on what you have heard today, based on the revised

1 industry petition, are there any points of agreement that you can take into a next
2 meeting on this subject? Okay.

3 We have had some concerns from members of our non-
4 Governmental organizations that are here today, Paul Gunter and Dave Ritter,
5 that have been thrown into the mix, but I take it that the NRC and NEI are going
6 to have a so-called Category 2 meeting, maybe many meetings on this in the
7 future.

8 Is there anything that you can use even as a very small
9 foundation? And if you want to use these, if they are helpful to try to do that,
10 then let's try to do that. But if they are not, then is there anything else that you
11 can say okay, we made some progress. And that's a bad sign, Eddie is putting
12 his card down when I ask the question have we made some progress.

13 MR. SEBROSKY: I guess my definition is a little different.

14 MODERATOR CAMERON: All right.

15 MR. SEBROSKY: I don't know that NEI and the staff are
16 going to come to complete agreement on this issue, but what we have to do,
17 what the staff is tasked with doing is writing a Commission paper in response,
18 and the SRM directs us to do that by March 1, 2004. It's clearly a policy issue.

19 So the more we understand NEI's position, the better able we
20 are to present that to the Commission, and I look at that and, I guess, I just go
21 back to what was stated earlier. In addition to this workshop, we have asked for
22 written comments to be supplied by September 15th of this year.

23 So the progress that I see is there were issues that were
24 brought up during this workshop that I didn't completely understand what NEI's
25 position was. I now have a better understanding. I don't agree with it, the points
26 in some cases, but I at least understand and, hopefully, Mr. Gunter and Mr.
27 Ritter have a better understanding of what the issue is.

1 If you go back and say is there anything that we can agree on,
2 I think if you look at our Category A and our Category E, the Category being
3 emergency planning ITAAC and the Category E being ISI and IST, that there
4 is general agreement between the staff and industry, I can't speak for Mr. Gunter
5 and Mr. Ritter, that at least for those two categories, that that's appropriate.
6 Category C and D, I think, are the battleground and where we have to better
7 understand the issues, so that we make sure we're providing all sides of the
8 positions of the Commission.

9 MODERATOR CAMERON: Okay. Thanks, Joe, very
10 thoughtful. Jerry and Jim? Jerry?

11 MR. WILSON: An area I think we can have agreement on,
12 and believe the point of the industry is that in order to meet this guidance from
13 the Commission about providing this additional information will be very
14 difficult for a prospective applicant to do that in order to avoid a Programmatic
15 ITAAC, and if the prospective applicant did it, there may be additional
16 consequences down the way, as Mr. Grant pointed out, that you provided
17 sufficient information such that you wouldn't need the ITAAC, and then later on
18 as they got around to working out the details of the procedures found out they
19 had conflicts with what they originally said.

20 So yes, I think we agree, speaking for myself, let me clarify,
21 I agree it would be difficult and there may be additional consequences in
22 meeting the guidance that, I believe, the Commission gave us in the SRM.

23 MODERATOR CAMERON: Okay. Thank you. Let's go to
24 Eddie. Eddie?

25 MR. GRANT: Just a real quick point on the SRM. The
26 Commission did indicate that you should be able to write a sufficient
27 programmatic description and describe its implementation in the SAR. I don't

1 believe they gave any indication that that would be additional information above
2 and beyond what is already provided in most FSAR. That is a conclusion that
3 the staff has reached without direction from the SRM.

4 MR. WILSON: That is our interpretation of the SRM, yes.

5 MR. GRANT: I understand your point.

6 MODERATOR CAMERON: All right. All right. Russ,
7 anybody else, you want to talk about -- Ben, do you want to say anything?

8 MR. GEORGE: Well, I was just going to add. I think it's
9 probably restating. The initial question I asked was what was the basis for the
10 staff's conclusion that you need to have this level? It really comes down to how
11 you define fully described.

12 MODERATOR CAMERON: What? I'm sorry.

13 MR. GEORGE: Fully described, and I guess the industry and
14 the NRC have a different opinion on right now what that description is, because
15 we feel you can fully describe a program in the FSAR without having to provide
16 detailed implementing procedures, and that is our point, but we certainly are
17 willing to provide you how we're going to implement those procedures and a
18 schedule for those, and the content will be in them, but it's just not practical for
19 us to do that, and I think we have gone through the time line with you a couple
20 of times. So the issue comes back to how do you define fully described as
21 articulated in the SRM?

22 MODERATOR CAMERON: And you would describe -- your
23 characterization of fully described would not include the implementing
24 procedures, although, it would include how and when, I guess, you're going to
25 develop those procedures.

26 MR. GEORGE: Yes.

27 MODERATOR CAMERON: Is that correct?

1 MR. GEORGE: That's correct.

2 MODERATOR CAMERON: Okay. Go ahead.

3 MR. SIMARD: And so the handout that's on the front table,
4 it says "Nuclear Energy Institute Handouts." If you take a look at that, for
5 example, and you look at the responsibilities for the senior manager responsible
6 for fire protection or you look at the fire brigade, when we talk about fully
7 described, since the last public meeting --

8 MR. RITTER: Which number?

9 MR. SIMARD: Well, let's see, if you were to look, for
10 example on --

11 MODERATOR CAMERON: Page number?

12 MR. SIMARD: Page 6, for example, of our handout, it says
13 "The assigned senior manager will be responsible for the following." Then there
14 is a page and a half. Now, if you looked at the implementing procedure, you
15 know, you could see a lot more detail as to the timing of certain actions and so
16 forth, but basically what we tried to do working back -- let's say, for example,
17 you did take an existing procedure at one of the sites.

18 You know, looking at the specific references to that unit or
19 that design and recognizing where the licensee might want additional flexibility,
20 you can start redacting. It's a Washington word. You can start blacking out
21 sections from that and you gradually cut back on that level of detail, and you get
22 to a point where you ask yourself well, wait a minute, how far is acceptable, or
23 you could come at it from the other way and say well, look, what does this
24 procedure do? The procedure assigns the following attributes, so what we have
25 tried to do is capture attributes in lieu of detail and certainly, appreciate if the
26 staff would take a look at that, you know, and consider if that doesn't at least
27 make progress for what the Commission is looking for.

1 MODERATOR CAMERON: Right. Thank you, Ron, as, I
2 guess, a concrete example of perhaps different levels of detail. I don't know
3 what the staff needs in that regard.

4 MR. SEBROSKY: Yes, our fire protection group hasn't had
5 a chance to --

6 MODERATOR CAMERON: To weigh in on that? Okay.

7 MR. SEBROSKY: That and detail. The high level though,
8 the initial action is that is consistent with -- in some cases, it's consistent with the
9 level of information that's in the FSAR. In other cases, it's different and it looks
10 like for the administrative controls portion, there is less information than what
11 you can find in the Callaway site specific addendum FSAR.

12 So the staff is still taking a look at this, but I think we
13 understand NEI's point that this was intended to be consistent with the level of
14 information that you would put in an FSAR application.

15 MODERATOR CAMERON: Okay.

16 MR. SEBROSKY: If the COL application came in today. In
17 other words, the licensing basis for this, if you put this next to Callaway and said
18 it was Callaway Unit 2, that the licensing basis would be that much different.
19 Am I understanding that correctly?

20 MR. GRANT: Yes, that's a good segueway into, I guess, the
21 one area that we haven't covered down on the agenda here is what programs
22 should be covered by Programmatic ITAAC and, for instance, if we lead into
23 one of the ones that we had in our Category 1, that was Part 21, I don't think you
24 will find a description of a Part 21 program in anybody's FSAR from any time
25 period up to this point.

26 But from what I understand, what you're asking us to do is to
27 provide that information and not only that information, but information on

1 implementation and details of how we're going to do it even though we have
2 never been required to provide a Part 21 program description in the FSAR. Am
3 I confused?

4 MR. SEBROSKY: The Part 21, I think, at some point -- I
5 don't think you are confused. I mean, if you look at the way that we categorize
6 the programs, we took the 14 programs that were listed in the SECY and we
7 came up with a guess on how we would bend the different programs, and it was
8 simply a guess.

9 The fact that Part 21 is treated differently than it has been in
10 the past, I would contend that all these programs are being treated differently
11 than they have been in the past, because it's a different licensing process.

12 MODERATOR CAMERON: All right. We're going to go to
13 Al and Russ, and see if anybody has anything to say in the audience. If someone
14 has a quick answer to Paul Gunter's combustibility issues that he brought up
15 originally, we can get that. I think we have someone who can do that for us, so
16 we'll go for that. And then, I think, I will turn it over to Jim Lyons as our senior
17 official to close it out, but let's go to Al and then to Russ.

18 MR. PASSWATER: Okay. I wanted to respond to Joe's
19 question about the level of detail that was in this draft that we sent in versus
20 what was in the Callaway FSAR. This is roughly equivalent to what is in the
21 current Callaway FSAR and, again, that is a plant that has been operating for 19
22 years now, and I know from personal experience that the FSAR -- I think this is
23 Rev 14 or something of the FSAR.

24 It has evolved over time, and one of the complications that I
25 ran into in putting this together is it's not just the fact that it has evolved, because
26 the plant has gone from construction to operation. It has also evolved, because
27 there has been a lot of changes in the regulations and the rules around fire

1 protection, too. So there has been a lot of changes that were affected by those
2 external forces.

3 So I think that the level of detail that's in here on the specific
4 areas that we addressed like fire brigade and the overall program and so forth is
5 probably greater than we had in the FSAR at the time we submitted for the
6 operating license, but, again, that was affected by a number of things. One is
7 time, putting together fire protection staff on site, the changes in regulatory
8 requirements around fire protection over that same time frame, as well as, you
9 know, just a lot more is available.

10 I think this level of detail, and of course you haven't had a new
11 application for an operating license for a long time, so it's hard to find one to
12 compare that to, but I think this is probably a lot greater than existed at the time
13 of the application for an operating license, but it is probably consistent with what
14 you would see for an operating plant FSAR, at this time.

15 And I did look at both what was in the FSAR and what was
16 in the associated procedure. The other problem I ran into with this was the
17 organization, the way the procedures were split up and the way the section
18 numbers were split up in here were different, so they don't exactly line up, but
19 I think this level of detail is something in between what is in a current day FSAR
20 and what is in a procedure, but it would be on the end of the spectrum towards
21 what is in a current day FSAR.

22 MODERATOR CAMERON: Okay. Thanks, Al. Russ?

23 MR. BELL: Thanks. I appreciate that you're looking for
24 fruitful areas of where we might go next. The Commission used the term fully
25 described in their SRM. They also used the phrase information necessary and
26 sufficient, so that the staff can make their required findings.

27 We have tended to focus more on what does fully described

1 mean and, as I mentioned at the top of my remarks, that's dicey, because it's
2 more subjective, and when it's is this full or is this full or is this full, I don't
3 know. And when we asked what was meant by fully described or, let's see, what
4 do I want to say?

5 Okay. When we asked why the staff feels they need procedure
6 level information, the response was well, because that is how we're interpreting
7 the phrase fully described. Okay. An answer I would have liked better is
8 because we the staff feel that that is the necessary and sufficient information we
9 need to make the finding. That is a different conversation.

10 So I see one of two things. I would like to follow-up if it's
11 fruitful on the other set of words, what the staff uses, necessary and sufficient.
12 Is it sufficient to describe that the assigned senior manager will be responsible
13 for the following functions or let the staff explain to us why they need to know
14 what the fire marshall who reports to that individual, what his responsibilities
15 are, which of those are his, the fire protection engineer, the superintendent of
16 training, why that level of detail is necessary to support their reasonable
17 assurance finding. I think that would be a fruitful follow-up.

18 Barring that, I see the alternative being further guidance from
19 the Commission, because if the focus must remain on fully described, we're
20 interpreting the Commission's words, and we obviously need help. If the
21 Commission were to come back and say yes, what we meant by fully described
22 is that we need procedure level information at the time of the combined license
23 application review and yes, we know what the implications are for asking for
24 that information four, five, six years ahead of the time it's due, if that's the
25 further clarification from the staff, we would have to accept that.

26 I would have to tell you we would just take our concerns
27 directly to that level. I think that would be a very difficult place for us to end up,

1 but I see those two paths in terms of fruitful follow-up.

2 MODERATOR CAMERON: And thank you for a positive
3 suggestion, Russ, and your first suggestion about focusing on the necessary and
4 sufficient phrase, as opposed to fully described may be a fruitful area to explore,
5 and when Jim closes perhaps he can tell us what the staff thinks about that.

6 I want to make sure that we give the people in the audience a
7 chance to say what they want to say and, Bob, I know you want to say
8 something, but let me see if there is anybody else from the public who wants to,
9 and we'll get our combustibility issue resolved. Bob, just introduce yourself to
10 us for the stenographer, too.

11 MR. BISHOP: Hi, I'm Bob Bishop from the Nuclear Energy
12 Institute. I guess it's obvious that I haven't been practicing before the NRC long
13 enough, but the discussion about the Commission's guidance to the staff, I'm a
14 simple man, I read the memorandum to be staff requirements, which I took to
15 be more than guidance.

16 I read them to say in the paragraph before they talk about fully
17 implement, that a review of the regulatory and legislative history reveals that
18 ITAAC were intended to be very narrow. They should encompass only those
19 matters that, by their nature, cannot be resolved prior to construction.

20 In fact, most, if not all, as Russ pointed out, of the operational
21 areas in which the staff has proposed ITAACs are ones that can and should be
22 resolved at the time of issuance of COL, so taking your guidance to us to try to
23 find some way to bring this to closure.

24 I look back at the staff's proposal. Category A, Programmatic
25 ITAAC are required for emergency planning. As I mentioned to one of my
26 colleagues, it's not that we think that's a good idea. It's like gravity. It's the law.
27 It's what the Energy Policy Act requires. It's what we have to do. That's

1 Category A.

2 Category B, I think there is also no disagreement.
3 Programmatic ITAAC are not necessary, because they are hardware related.
4 They are not programmatic related. Therefore, by definition, it doesn't fall into
5 it.

6 Category C is where we believe, consistent with the
7 Commission's requirements, that Programmatic ITAAC are not necessary,
8 because the program and its implementation can be fully described in the COL
9 application.

10 D seems to be the only issue of controversy, and that is where
11 the Commission said if, by its very nature, it cannot be resolved at COL
12 application and D, Category D on the staff's proposal is necessary, because the
13 program and its implementation cannot be fully described in the COL
14 application, so I see a joinder, that that is, again, in the Commission's words,
15 only those matters that, by their nature, cannot be resolved prior to construction,
16 but that is qualified by, in fact, most, if not all, should be able to be in that.

17 So I would suggest that the Commission has said we, the
18 Commission, want to know what the staff believes, what the industry's view is,
19 as well, ought to be in Category D. Which of these 14 things, by their nature,
20 must be in Category D? Category E we have also closed out on.

21 An observation, it seems to me that this requirements
22 memorandum was written in September of 2002. It's pretty close to a year ago,
23 and I understand now that in March of 2004, the staff is fundamentally going to
24 go back to the Commission and tell them which of these, by their nature, need
25 to be in Category D. It seems to me it's incumbent on all of us to try to come to
26 grips with this more than 18 months after we got the staff's requirements.

27 MODERATOR CAMERON: Okay. Thank you, Bob, and it

1 seems like what you're saying though is at least the descriptions of the categories
2 are a good starting point. All right. Let's go to Bob Weisman, and there is not
3 meant to be any balance here, but go ahead, Bob.

4 MR. WEISMAN: My only comment is in response to, I think,
5 something that Mr. Grant said and I think it's also repeated by several other
6 people, about information having to be in the SAR. Part 52 does have a
7 provision that allows the application to include information that is not otherwise
8 included in the SAR.

9 So there is some room to determine whether or not, I mean,
10 suspend your disbelief that an applicant might submit some procedures, that
11 those would not necessarily have to be in the SAR. It could be in the application
12 and not be in the SAR, so that is a possibility. That's something that you might
13 consider discussing further.

14 MODERATOR CAMERON: Thank you, Bob. Let's go for
15 the combustibility answer, and then see if anybody else has anything to say. Go
16 ahead. Do you want to use that? Go ahead and tell us who you are, too.

17 MR. KLEIN: My name is Alex Klein. I am a senior fire
18 protection engineer at NRR, Special Systems Branch. Let me just mention first
19 of all that I'm here to cover for our branch. The primary person who is involved
20 with ITAAC could not be here, that staff member, so I'm here.

21 Let me at least address the question with the combustibility of
22 penetration seals. First of all, let me acknowledge that, I think, the point that
23 Mr. Gunter was trying to bring up was that perhaps the model or the groundwork
24 that we had laid down, and correct me, Joe, if I'm wrong with this, that we used
25 the Callaway model as the groundwork for the types of details that we would
26 want to see.

27 MR. SEBROSKY: Yes, just the only clarification is the

1 reason that we picked up on Callaway was to get the programmatic side, not to
2 get the design side.

3 MR. KLEIN: Right.

4 MR. SEBROSKY: And we looked at Callaway for the level
5 of detail they have for discussion of fire protection engineer, fire brigade. We
6 also in the proposal alluded to the AP600 combined license, and the fundamental
7 thought is that the hardware issues would be resolved during a certified design
8 process, which most of the applicants have told us that they intend to or NEI has
9 told us, and you can correct me if I'm wrong, that a combined license application
10 will most probably reference one of the 10 designs that have either been fully
11 reviewed by the NRC or being reviewed by the NRC now.

12 MODERATOR CAMERON: And let me just -- our
13 stenographer has an unavoidable phone call to make at 4:30, and if we have to
14 take a break then and come back, I don't think we're even going to get this
15 raveled back together, but we can certainly do that or we can have you --

16 MR. KLEIN: I don't know if I need to add anything more.

17 MODERATOR CAMERON: Okay.

18 MR. KLEIN: Except that, you know, what Joe mentioned is --

19 MR. SEBROSKY: Yes, the only question I was hoping, Alex,
20 you can answer is the question about the combustibility. My humble
21 understanding is that in seals, penetrations, that is something that we would
22 typically look at during a certified design.

23 MR. KLEIN: That's correct, and I think that what Mr. Gunter
24 was alluding to with the combustibility is that we had previous guidance and
25 now, we have got some revised guidance, if you will, with respect to the
26 combustibility of penetration seals. Now, granted, Callaway is an older plant.
27 I would expect that any of the new design plants would come in utilizing the

1 most up to date guidance available.

2 MODERATOR CAMERON: Okay.

3 MR. KLEIN: That's the point I wanted to make.

4 MODERATOR CAMERON: Thank you, thank you very
5 much. Let's here from Jim Lyons and then we can go off the record perhaps for
6 Eddie and a comment out there. Okay? Jim?

7 MR. LYONS: Yes, I guess, I would just like to thank
8 everyone for coming. I think our next steps are we got a lot of good information
9 from this exchange. I think it has been very helpful. We're looking forward to
10 any additional comments that you have to be provided throughout the comment
11 period, through you said September 15th, that we would like to hear.

12 And I see us continuing the dialogue as we move forward, that
13 we need to try and come together with a position that we can then present to the
14 Commission in the April time frame, and so that's where I see us moving
15 forward. I think, you know, we have, I think, some main issues that we can kind
16 of work from and move forward. So with that, I thank everybody and go back
17 to you, Jim.

18 MODERATOR CAMERON: Okay. All right.

19 (Whereupon, at 4:32 p.m. the workshop was concluded.)
20
21